

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

THE HANSARD

Wednesday, 18th August 2021

The House met at 9.30 a.m.

[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]

PRAYERS

Hon. Deputy Speaker: Hon. Members, we do not have the requisite Quorum. Therefore, I order the Quorum Bell to be rung for 10 minutes.

(The Quorum Bell was rung)

Hon. Members, we still do not have the required quorum and are short of about 12 Members. So, I order the Bell to continue ringing for an extra five minutes.

(Quorum Bell was rung)

No Members other than Whips are allowed to step out of the Chamber. Order Members! We now have quorum, so business will begin.

PETITIONS

ABOLITION OF REQUIREMENT FOR POLICE CLEARANCE CERTIFICATE

Hon. Deputy Speaker: Order Members! Take your seats. Hon. Members, under Standing Order No. 225(2)(b), it requires the Speaker to report to the House any Petitions other than those presented by a Member. Further, Article 119 of the Constitution provides for the right of any person to petition Parliament to consider any matters within its authority, including petitioning the House to enact, amend or repeal any legislation.

In this regard, Hon. Members, I wish to report to the House that my office has received a Petition from several citizens led by one Susan Wangui Gachango of P.O. Box 156, Murang'a, calling for the abolishment of the requirement for police clearance certificate as well as sealing of criminal records after fifth year of the offence.

The Petitioners aver that the requirement by employers for job seekers to produce police clearance certificate is not a statutory requirement, but one which infringes on the constitutional rights to privacy since it exposes the job seekers past records. They argue that such exposure is unfair since the job seeker might have committed an offence as an ignorant minor or may have been wrongly convicted and jailed for offences that he or she never committed particularly in

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absence of good defence. Further, the Petitioners view this requirement as a discriminatory one since most employers may use police clearance certificates as a basis for disqualifying job seekers having records purported to be criminal irrespective of their qualifications.

Hon. Members, the Petitioners are convinced that employing a person with a past criminal record can demonstrate diversity, inclusion, social responsibility and act as an avenue for their rehabilitation, thereby reducing the likelihood of them relapsing back to crime. In addition, they said that the portrayal of court case details on the police clearance certificates amount to discrimination on grounds of conscience since it reminds the job seeker of their past. In this regard, they provide reference to the United States of America (USA) State of Indiana as well as the United Kingdom (UK), as examples of jurisdictions where certain misdemeanours and non-violence felonies are expunged from the offender's record after several years.

Consequently, Hon. Members, the Petitioners seek the intervention of this House to consider abolishing the requirement for police clearance certificate by employers as well as closing and permanently obliterating criminal records five years after conviction.

Hon. Members, pursuant to provisions of Standing Order No.227(1), this Petition stands committed to the Departmental Committee on Justice and Legal Affairs. The Committee is requested to consider the Petition and report its findings to the House and the Petitioners in accordance with the Standing Order No.227(2).

I thank you, Hon. Members.

I see Members seeking interventions. Do they want to speak to this one? Okay, we will start with Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Deputy Speaker for this opportunity. I think this Petition is really timely. When people commit offences, punishment is meted out, so that they can be corrected. Sometimes, they end up going to jail because these are correctional centres. After they have served their terms, there should be a short period within which they are rehabilitated back to society.

I think it is a fact that a lot of employers in Kenya today insist on the Certificate of Good Conduct. Therefore, this basically means that one who committed an offence, even if it was 20, 30 or 40 years ago, will be punished as a result of this. I think this is double jeopardy and means people are punished because they served a jail term and afterwards, they are unable to get employment and cannot be corrected. I think this is timely and I support the Petition.

Hon. Deputy Speaker: Hon. Dawood.

Hon. Rahim Dawood (North, Imenti, JP): Thank you, Hon. Deputy Speaker. I want to join my colleague in supporting the Petition. We cannot do double jeopardy in the sense that somebody has already been jailed or convicted. Then, when they go looking for a job to fend for themselves, this is indicated in the Certificate of Good Conduct. So, anybody who has been convicted for less than two or three years or fined less than Kshs100,000, this should not be indicated in the Certificate of Good Conduct as a criminal conviction. Otherwise, I support the Petition.

Hon. Deputy Speaker: Hon. Kipyegon Johana Ngeno.

Hon. Kipyegon Ng'eno (Emurua Dikirr, KANU): Thank you, Hon. Deputy Speaker. I also wish to support the Petition. We ask our youths, especially the upcoming ones, for clearance certificates yet politicians and leaders in this country occupy big offices and are known criminals. Why are we denying the youths positions just because of some clearance certificate? I do not think it is very necessary. So, we need to remove those clearances and things *yenye wanaulizwa*, so that our youth can get employed. I think we need to remove those.

Hon. Deputy Speaker: You are very emotional about this.

Hon. Kipyegon Ng'eno (Emurua Dikirr, KANU): Yes. You know I have so many criminals including even me as a potential criminal because I have been on record being arrested several times, but I still find my way to Parliament and other serious opportunities. Why are we denying the young people employment just because of some certificates? Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next is Hon. (Dr.) Wakhungu Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Deputy Speaker. This is a very serious Petition. Article 119 of the Constitution is very clear that any Kenyan can petition this House to look into a matter. I am not aware that the clearance certificate is mandatory. I think many organisations use it discretionary. Again, it is a clearance certificate among others. So, as I request the Justice and Legal Affairs Committee to look into this matter, they must do it in a way that they advise us on the best way forward. Even when Members of Parliament here go for clearance to run for office, you are required to present a clearance certificate, which is among other things. So, to me, I am humbly requesting the Committee to look at it objectively, but in a way, what my colleagues have said is true. If you have gone through prison, you are supposed to have corrected yourself. So, it will only provide a basis to the employer to be aware that you have a history of criminality and they will be able to look at the trend to see, indeed, whether you have changed or not. However, in my own observation, it is not mandatory. It is used among others and to that extent, I leave it for the Committee to do justice and bring it on the Floor of the House.

I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next is Hon. Iringo Kubai.

Hon. Kubai Iringo (Igembe Central, JP): Thank you, Hon. Deputy Speaker, for giving me an opportunity to comment on this Petition. I support the Petition because once somebody has been convicted of a crime and you have been punished for the same, it should not hang on your neck all the days of your life. There are people who happen to be jailed or convicted because maybe of improper judgement or even somebody has been implicated in something which they did not do. If you are charged and your fingerprints have been taken by the police officers and then the fingerprints are kept permanently, it will even hamper your progress. If we talk of jail to be a correctional place, then once you are corrected, you can be given a chance to start your life afresh without being followed by the past, which becomes a problem to the future of that person. I thank you, Hon. Deputy Speaker

Hon. Deputy Speaker: Okay. I think the rest of the Members will speak to the next one. Let us now go to the Member for Galole, Hon. Hiribae.

DEGAZETTEMMENT OF HOLA IRRIGATION SCHEME LAND

Hon. Said Hiribae (Galole, FORD-K): Thank you, Hon. Deputy Speaker. This is a Petition regarding degazettement of 2,000 acres of Hola Irrigation Scheme land for expansion of Hola Town.

I, the undersigned, on behalf of residents of Galole Constituency in Tana River County, draw the attention of the House to the following-

THAT, Hola Irrigation Scheme in Tana River County was gazetted on 26th April 1963 and covers an area approximately 12,630 acres;

THAT, the scheme was initially used as a settlement scheme to settle thousands of Mau Mau freedom fighters and residents of Tana River in general in the 1960s;

THAT, the physical location of Hola Irrigation Scheme at the heart of Hola town has over the years proven to be disadvantageous to area residents in view of the fact that it continues to block the much needed expansion of Hola Town, which is the headquarters of Tana River County;

THAT, in a bid to address this long-standing challenge, officials of the National Government as well as representatives from Tana River County Government, area Members of Parliament, the National Land Commission and other stakeholders met in Hola Town on 15th July 2021 and mutually agreed to degazette 2,000 acres in the southern and eastern parts of the Scheme to facilitate expansion of Hola Town, and to compensate for this degazettement through extension of the Scheme's northern borders by a similar acreage of 2,000 acres;

THAT, the proposed degazettement and replacement of the south-eastern segment of the Scheme will secure the expansion of Hola Town and Tana River County in general through economic, social and infrastructural development that is currently hindered by the Scheme's current location;

THAT, the proposal offers the only feasible option in addressing this long-standing challenge, and is a win-win arrangement that has been amicably agreed upon by all stakeholders since the land in the southern part of the Scheme is proposed to be replaced by a similar size of land in the northern part of the Scheme;

THAT, efforts to have the matter by the relevant authorities have not yielded any fruit; and,

THAT, the issues in respect of which this Petition is made are not pending before any court of law, or other constitutional or legal body.

THEREFORE, your humble petitioners pray that the National Assembly, through the Departmental Committee of Environment and Natural Resources;

- (i) intervenes to facilitate timely degazettement of 2,000 acres in the southern and eastern parts of Hola Irrigation Scheme to facilitate expansion of Hola Town, and to facilitate extension of the scheme's northern borders by a similar acreage of 2,000 acres; and,
- (ii) makes any further orders deemed fit in the circumstances of the Petition.

And your **PETITIONERS** will forever pray. Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Before I commit it to the Committee, there are two Members who want to speak to it. Hon. Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Deputy Speaker. A similar Petition was in this House just last week or two weeks ago. I think I spoke on it and I expressed how I know Hola very well having travelled to those areas when doing the other things for teachers, and the suffering of the people courtesy of the fact that the irrigation scheme has taken so much land. I think last time, there was also a connotative conflict with the wildlife.

What I really wanted to mention was on the first Petition. We did some calculation from the employers' point of view and realised that when the young people are asked all those requirements including the police clearance certificate, it goes to almost Kshs10,000. Like Hon. Ng'eno talked about it very emotionally, it is actually hampering the young people to apply for jobs.

Hon. Deputy Speaker: Do not go too deep into that. It has already been committed, but you have had your say anyway.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Deputy Speaker and thank you for this chance.

Hon. Deputy Speaker: Hon. (Dr.) Makali.

Hon. (Dr.) Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Deputy Speaker. Let me comment on this Petition on Hola Town. When the Member started presenting the Petition, I

was getting a bit worried because he was saying that we change irrigation land so that the town can be constructed. However, as he proceeded, I realised that it is a win-win situation because he is saying that we take 2,000 to accommodate the town and also extend by another 2,000 in the northern part of it, so that at the end of the day, you do not lose any acreage for irrigation.

With those remarks, I support and I wish the Committee will be considerate.

Hon. Deputy Speaker: That is committed to the relevant Departmental Committee on Lands. I see the Chair here. I hope they will process it within the time stipulated under our Standing Orders.

QUESTIONS AND STATEMENTS

Hon. Deputy Speaker: Under that particular Order, we have Ordinary Questions. We will start with the Member for Kuria East, Hon. Maisori Marwa. Hon. Members, even when you have a Question, prepare yourself to come with your card because it becomes very easy for us. Do you have your card? What is your seat number? You now have the microphone.

ORDINARY QUESTIONS

Question No.300/2021

MEASURES TO PROTECT INDIGENOUS LANGUAGES FROM EXTINCTION

Hon. Marwa Kitayama (Kuria East, JP): Thank you, Hon. Deputy Speaker. I rise to ask Question No.300 of 2021 directed to the Ministry of Sports, Culture and Heritage:

- (i) Could the Cabinet Secretary state measures put in place to ensure that all indigenous languages spoken by the over 79 minority indigenous communities spread over the 47 counties in Kenya are protected from extinction?
- (ii) Could the Cabinet Secretary also explain the criteria used to determine that only 19 majority community languages in 30 counties would have their local languages preserved from extinction and taught in schools, leaving out other marginalised minority indigenous communities whose languages are on the verge of extinction?
- (iii) Does the Ministry have any plans to include all indigenous languages spoken in Kenya in the languages used in teaching programmes in the national curriculum?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That Question will be replied to before the Departmental Committee on Sports, Culture and Tourism. Let us go to the Member for Awendo, Hon. Walter Owino.

Question No.312/2021

MEASURES TO ENSURE FOOD SECURITY IN KENYA

Hon. John Owino (Awendo, ODM): Thank you, Hon. Deputy Speaker. I rise to ask Question No.312 of 2021 directed to the Cabinet Secretary for Agriculture, Livestock and Fisheries:

- (i) What measures has the Government put in place to assist the more than 1.5 million drought-stricken persons who are on the verge of facing starvation in the

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country?

- (ii) Given the massive crop failure being experienced across the country, particularly the maize crop, as a result of rain failure, could the Cabinet Secretary explain the measures in place to ensure the country has adequate food for all going forward?
- (iii) Could the Cabinet Secretary provide the long-term strategy for attaining food security in the country and in particular, for vulnerable persons and areas with adverse and unfavourable weather conditions?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. That one will be replied to before the Departmental Committee on Agriculture and Livestock. Let us go to the Member for Ainabkoi, Hon. Chepkut. Okay. Let us go to the next one. Let us have the Member for Emuhaya, Hon. Omboko Milemba.

Question No.318/2021

STATUS OF INVESTIGATIONS INTO SHOOTING OF
THREE STUDENTS IN EMUHAYA

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Deputy Speaker, I rise to ask Question No.318 of 2021 to the Cabinet Secretary for the Interior and Coordination of National Government:

- (i) Could the Cabinet Secretary provide the status of investigations into the recent shooting of the following three students by police officers: Alfred Odaba Kutwa, a Class Seven student at Esalwa Primary School, Eric Munala Julius, a Form Four student at St. Peters Itumbu Secondary School, and Geoffrey Obwanga, a Class Seven pupil at Itumbu Primary School, all in Emuhaya Constituency?
- (ii) Could the Cabinet Secretary explain the steps the Government is taking to deal with the responsible police officers assigned to Luanda Police Station, Luanda Sub-County who are alleged to have overstepped their mandate by operating outside their administrative jurisdiction as Emuhaya has its own Commanding Police Division?
- (iii) What measures has the Government put in place to compensate the said students for the injuries sustained to enable them to meet the high costs of hospitalisation and resume school?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. That one will be replied to before the Departmental Committee on Administration and National Security. Let us go to the Member for Changamwe, Hon. Mwinyi.

Hon. Omar Mwinyi (Changamwe, ODM): Thank you, Hon. Deputy Speaker. I rise to ask Question 320 of 2021 directed to the Cabinet Secretary for Tourism and Wildlife. Before I ask the Question, allow me to express my apprehension regarding this Ministry. I asked a Question directed to this Ministry about two months ago and I have not received any replies. I wonder whether the Cabinet Secretary is in the country or whether the Ministry is still functioning. Perhaps, we should know the fate of this Ministry. I am worried...

Hon. Deputy Speaker: First ask the Question. Hon. Mwinyi, first, you need to put on your mask properly. Second, if you have issues with any Questions that you have asked, you can raise them in the normal manner, so that we do not mix up the two. You are just giving a statement and

we cannot pinpoint which particular Question has gone unanswered. It is better to ask this particular one and then if you have to raise the other one, do so while citing the specific Question.

Hon. Omar Mwinyi (Changamwe, ODM): Thank you, Hon. Deputy Speaker. I stand guided, but I think the message is already across.

Question No.320/2021

CONSTRUCTION OF A WORLD-CLASS INTERNATIONAL
CONFERENCE FACILITY IN MOMBASA COUNTY

Hon. Omar Mwinyi (Changamwe, ODM): I rise to ask Question No.320 of 2021 directed to the Cabinet Secretary for Tourism and Wildlife:

- (i) What is the implementation status of the partnership agreement signed between M/s. Lafarge - Bamburi Cement Company and the Kenya Tourist Development Corporation to promote conference tourism in the Coast region, whereby the company agreed to, among other things, donate a ten-acre piece of land for the construction of an international conference facility in Bamburi area of Mombasa County?
- (ii) Could the Cabinet Secretary explain why Mombasa County, despite being an international tourist hub, lacks a world-class international conference facility?
- (iii) Could the Cabinet Secretary indicate whether there are any plans to ensure that such a facility is put up in the county?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. That one will be replied to before the Departmental Committee on Environment and Natural Resources. Next is the Member for Laikipia North, Hon. Paulata Korere. Did she just leave? I will assume it was something she could not hold on to. Let us give her a few more minutes. Let us go to the Member for Kathiani, Hon. Mbui.

Question No.323/2021

REMOVAL OF BENEFICIARIES FROM THE ELDERLY CASH
TRANSFER PROGRAMME IN KATHIANI CONSTITUENCY

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Deputy Speaker. I rise to ask Question No.323 of 2021 to the Cabinet Secretary for Labour and Social Protection:

- (i) Could the Cabinet Secretary explain why Nduva Muthengi Nzyoka of ID No. 1695524, Munyiva Wambua Ndunda of ID No.1605314, Muthue Mumo of ID No.32522845 and over 200 other beneficiaries of the Elderly Cash Transfer Programme in Kathiani Constituency no longer receive their monthly stipends despite having been successfully recruited into the programme and receiving the money for some time?
- (ii) Could the Cabinet Secretary explain the circumstances that led to the removal of these beneficiaries from the system without any formal communication to them?
- (iii) Could the Cabinet Secretary undertake to ensure that the said beneficiaries are reinstated into the system considering that they are all vulnerable and needy and ensure that they receive their monthly stipend all the way from the time it stopped?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That one will be replied to before the Departmental Committee on Labour and Social Welfare. Next is the Member for Teso South, Hon. Geoffrey Omuse.

Question No.328/2021

SUSPENSION OF REGISTRATION OF NEW SCHOOLS

Hon. Geoffrey Omuse (Teso South, ODM): Thank you, Hon. Deputy Speaker. I rise to ask Question No.328 of 2021 to the Cabinet Secretary for Education:

- (i) Could the Cabinet Secretary explain why the Ministry suspended the registration of new schools vide a letter, Ref MOE.HQS/3/6/56 VOL.2(43), dated 15th June 2021 addressed to all regional and county directors of education?
 - (ii) Could he provide the steps that the Ministry is taking to ensure that Machakusi Girls Secondary School and Kodedema Girls Secondary School in Teso South Constituency, which at the time were at 98 per cent and 60 per cent completion respectively, are registered considering the huge resources already invested towards their construction?
 - (iii) Could he give an indication as to when the Ministry plans to lift the said suspension?
- Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: This, obviously, is an extremely serious Question just like the rest of them, but specifically this one touches many Members directly.

What is it, Hon. Ng'eno? Ordinarily, it is not the right procedure for you to raise any issue on this one, but I am willing to listen to you because I have heard quite a number of Members having an interest in this particular one.

Proceed, Hon. Ngeno.

Hon. Kipyegon Ng'eno (Emurua Dikirr, KANU): Thank you, Hon. Deputy Speaker. As you said, this is a very serious matter because it touches on the issue that is provided for in the Constitution, that it is the right of every citizen to education. The reason we are starting new schools is the introduction of free day secondary education. There are many parents who cannot afford to send their children to boarding schools, and to other schools which are very far away. We are starting these schools because they are closer to the students.

Secondly, it is illogical to be told that we cannot register new schools yet there is also the introduction of 100 per cent transition from primary to secondary school. You want to achieve 100 per cent transition from primary to secondary school yet there are no schools. That is why we need to build new schools to allow for that 100 per cent transition.

The third one is the question of new primary schools. Even as we speak, the population is rising. It is not decreasing. People are giving birth in our country and, therefore, the population is increasing every day. So, the reason we are starting new schools is to cater for the increase of population that will need classrooms and other stuff.

So, I support the Member on that Question that the Ministry of Education should not suspend registration of new schools. In fact, building of classrooms is a prerogative of the National Government Constituencies Development Fund (NG-CDF). We are not asking the Ministry of Education to build for us even a single classroom. Employment of teachers is a prerogative of the Teachers Service Commission (TSC). So, why is the Ministry so jittery about new schools yet they are not contributing anything?

Hon. Deputy Speaker, I support.

Hon. Deputy Speaker: There is no reason for you to support.

Hon. Kipyegon Ng'eno (Emurua Dikirr, KANU): Hon. Deputy Speaker, I support the Petition.

Hon. Deputy Speaker: Unfortunately, it is not a petition. It is a Question. If it was a Petition, it would have been easy. I have just given an opportunity to Members because I know they had raised this matter before.

Let us have Hon. Milemba. Before you proceed, there is a point of order by the Member for Luanda. What is it, Hon. Member for Luanda?

Hon. Christopher Omulele (Lunda, ODM): Hon. Deputy Speaker, I stand in support of the Question by the Member for Teso South, but I take objection to the submission by the Hon. Member for Umurua Dikirr that building of schools in this country is the prerogative of the NG-CDF. We passed the budget in this House and one of the biggest chunks of that budget goes to the education sector. Actually, more than 30 per cent of the national budget goes to the Ministry of Education. Compare that with the 2 per cent of the national Government's share of the budget that goes to the NG-CDF. So, coming here to say that building of schools is the business of the NG-CDF is getting it wrong.

This thing needs to be clarified because I have heard even the Cabinet Secretary, Ministry of Education himself say that Members of Parliament must build schools. A person not less than the President himself has said that Members of Parliament are actually supposed to build schools when you consider that the NG-CDF share of the budget is only 2 per cent, which is shared out amongst the 290 constituencies. The mandate of the NG-CDF is defined in the Act. There are so many other things that are supposed to be done. So, if you lump this thing and say that Members of parliament are responsible for building schools in this country, we are getting it wrong. However, the rest of the point is correct.

Having said that...

Hon. Deputy Speaker: Actually, I did not want you to go there, Hon. Omulele. You said that the Cabinet Secretary himself stated that Members of Parliament should build schools. For the purpose of relevance to that particular Question asked by the Member, why would they then, after asking Members to build schools, say that they are not going to register them? That is where the rubber hits the road.

Hon. Christopher Omulele (Lunda, ODM): Hon. Deputy Speaker, that is where I was getting to. I know that Members struggle and there is no Member in this House who wastes even a single shilling that they allocate to improving schools in their constituencies. When they improve schools by building new infrastructure in them and the same Cabinet Secretary says that they should not be built, what are we doing in this country? The same Cabinet Secretary is the one who says every day that every child must transit from primary school to secondary school. The meaning of that, in my understanding, is that for every Class Eight pupil that is sitting for examinations, we must have a ready Form One classroom for him to transit to. If we do not have an equivalent number of secondary schools ready to receive children from primary schools, what are we doing?

We must call the Cabinet Secretary to order, so that he explains to us where he expects the children who are at Emululu Primary School in Luanda Constituency to go to secondary school if those ones at Mumboha Primary School are all transiting to Form One at Momboha Secondary School. So, these are questions that we must ask the Cabinet Secretary.

Hon. Deputy Speaker: Okay. This is a very serious issue and I will give a chance to six Members. I do not know where the Chairperson or the Vice-Chairperson of the Departmental

Committee on Education and Research are? It will be very important for them to tell us when they can ask the Cabinet Secretary to appear before the Committee.

Hon. Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Deputy Speaker, this is a very frustrating issue. Therefore, the Question asked by the Member is very relevant. There is a problem with the Cabinet Secretary in the Ministry of Education. He is trying to relate the number of teachers in schools *viz-à-viz* the number of schools that should be available. He seems to be moderating the number of schools in the country with the number of teachers who are employed by the TSC. The truth of the matter is that majority of the schools have teachers employed by their Boards of Management (BoMs) and the parents themselves. Therefore, the Cabinet Secretary should completely stop relating the number of teachers employed by the TSC with the number of schools in the country. The Cabinet Secretary must go to the ground to appreciate the situation. He was personally pushed through the issue of 100 per cent transition from primary school to secondary school. Many students are now transiting from Class Eight to Form One. Therefore, both primary and secondary schools need to be expanded because education is now free and compulsory.

Hon. Members have built schools. When the COVID-19 struck, the President, in his address, together with the Cabinet Secretary, said that the NG-CDF should help in improving and expanding school infrastructure. The so-called “infrastructure” are the schools that are now not being registered by the Ministry of Education. Hon. Members are really suffering because of this suspension.

Furthermore, the Cabinet Secretary is reducing even the number of examination centres amid COVID-19, meaning that he wants students to be squeezed even more as they take examinations. The Cabinet Secretary for Education must be called to order. I am a Member of the Departmental Committee on Education and Research and my Chairperson is not here, but indeed, the Cabinet Secretary has to be called to order to understand that with 100 per cent transition, schools must be registered as they come up.

Indeed, he has to be called to order to understand that with the 100 per cent transition, schools must be registered as they come. There is no relationship between governability of the TSC teachers and the schools that crop up because there are over 300,000 trained teachers in the field who can serve.

Thank you.

Hon. Deputy Speaker: Okay. Now, Hon. Wangari.

Hon. (Ms.) Martha Wangari (Gilgil, JP): Thank you, Hon. Deputy Speaker. I rise to support the Member on this Question.

The mess that is in the Ministry of Education, Science and Technology is crazy. I do not even know why we are discussing this issue of registering schools. We cannot be giving from one hand and taking from the other. We say we want to transit kids to secondary schools and then we that say we cannot register schools. I have a school, Ol Jorai Secondary School, whose capacity is 100 and the Ministry has allocated them 195. What exactly is the Ministry doing? This should not even be an issue of debate. It should not even be an issue of the Ministry to decide. Even teachers are given per school. That is why you are seeing so many teachers being employed by BOMs in this country yet, if the schools were spread, they would get allocation from the TSC. There is a serious issue in the Ministry of Education, Science and Technology. This also touches the money and the capitation. The corruption that is going on in that Ministry must be called out.

On the issue of books, schools are having excess books because we centralised the printing of books in Nairobi. We took it from the schools. You get cartons and before you even open one,

there is another one because the curriculum has been changed. When Departmental Committee on Education and Research will be dealing with this issue, let them deal with it very widely and broadly. It is a bigger problem and must be called out.

Hon. Deputy Speaker: Okay. Hon. Melly, former Chair of Departmental Committee on Education and Research. Meanwhile, I hope Hon. Omboko Milemba, because I do not see your Chair or Vice Chair, should be taking notes, including what you actually asked yourself. Those are issues that you will need to address with the Cabinet Secretary.

Hon. Julius Melly (Tinderet, JP): Thank you, Hon. Deputy Speaker. I want to speak to this matter, which is a matter of national concern. Hon. Omuse has just brought it.

I think the Ministry is sleeping on the job. On several occasions, we have the 100 per cent transition. Members of Parliament have moved a step ahead and built schools. Last week, we discussed about congestion in schools. These are different times. We have issues now in many schools where students are sleeping in labs. Some of them are even in dining halls, some are even in tents, yet we have built a number of schools to ease congestions in these areas. The Ministry is refusing to register them. I have a case in my constituency where I have around three secondary schools which we built from Form One to Form Four. The students are now in Form Two, yet they have not been registered. They have the facilities. We have Cherondo Secondary School, Kipkuria Secondary School and even Kibongwa Secondary School, which are good schools. They have students yet the Ministry is saying that there is no need to register them.

As my colleagues have just said, look at the national schools. This is a COVID-19 period and students are very much congested. When they are congested, you will realise that even diseases will break out. If the Ministry is refusing to register the schools and we have 100 per cent transition, it is bad.

(Several Hon. Members walked along the aisle)

Hon. Deputy Speaker: Hon. Members, avoid standing anywhere between the Deputy Speaker and the Member speaking. Now, Hon. Malulu Injendi, you are actually not even observing social distancing. I might even order you out of order. Who are these Members? Order, Members. Social distance must be maintained. There should be no standing between a Member and the Chair. That is in the Standing Orders. You must have read. Hon. Malulu, you have been here for some time and you must be able to know that.

So, Hon. Melly, you can wind down. You have really made your point.

Hon. Julius Melly (Tinderet, JP): Yes, Hon. Deputy Speaker, I am winding up. I just want to really ask the CS not to sabotage his programmes in the Ministry by trying to stop registration of schools and the 100 per cent transition by not registering new schools and allowing expansion of education in this country.

Hon. Deputy Speaker: Hon. Sossion. Let us be brief, so that I can give chance to a few other Members. I see the interest is too much.

Hon. Wilson Sossion (Nominated, ODM): Thank you, Hon. Deputy Speaker. I thank Hon. Omuse for coming up with this critical matter.

Stopping the registration of schools is an ill-informed decision by the Ministry of Education, Science and Technology. Looking at the congestion in schools, they are congested due to enrolment of as high as 2,000 learners. It has reached a time when we must define what a school is in terms of enrolment. A school with 2,000 learners ceases to be a school. Therefore, over-enrolling schools and refusing or stopping creation of new ones is creating a mess. This House

must resolve and direct the Ministry of Education, Science and Technology to put aside that policy and allow creation of new schools. We must set an upper limit, maybe 500, 700 or 800, so that when we have a school, we have a definition in terms of enrolment, so that we avoid congestion and ensure that there is delivery of quality services to learners.

Hon. Deputy Speaker: Okay. Hon. Lekumontare Jackson.

Hon. Jackson Lekumontare (Samburu East, KANU): Thank you, Hon. Deputy Speaker.

This is an important question. It concerns all of us. I think the Ministry of Education, Science and Technology is confused. If a Member constructs a school and does not even ask them to give anything, they only refuse to give that certificate. The CS does not even know some parts of this country. They should remove whatever they have written to stop the registration of schools because there are a lot of problems back at the constituencies that we represent. There are even no more schools. I think we need to follow up. They should withdraw whatever they have written so that they can register schools immediately.

Hon. Deputy Speaker: Okay. Hon. Waruguru. Then, I probably would want to end there and make a decision. I am trying to see. There are quite a number of Members who want to speak to this. It is not supposed to be operating this way, but I have used the Standing Orders to give some leeway to Members to speak because this is a matter that has to be really taken very seriously.

Hon. (Ms.) Catherine Waruguru (Laikipia CWR, JP): Hon. Deputy Speaker, I rise in support of the Statement and what Hon. Christopher Omulele has just stated to this House, that the conduct of the CS of the Ministry of Interior and Coordination of National Government is unbecoming. Sorry, Hon. Deputy Speaker. The conduct of the CS, Ministry of Education, Science and Technology is unbecoming; one Hon. Magoha. I know somebody is just about to ask why I am obsessed with the CS, Ministry of Interior and Coordination of National Government. He is also another big head. So, I owe him no apology. We will discuss him when his day comes.

(Laughter)

But truth be told, if the CS does not prohibit the number of bars which are being operated in our villages, why does he want to stop women from giving birth and taking our children to school? So, it does not make any sense. I will continue saying that the only way we are going to liberate this country from the unbecoming conduct of this CS is reverting to a parliamentary system of governance. We need ministers from this House. Today, it could be Hon. Sossion who is the minister for education and he would understand these things better than the current CS.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Now, you have mixed me up. I think you were probably not completely prepared. So, you woke up with what was in your mind.

(Laughter)

Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Deputy Speaker. Thank you, Hon. Omuse for bringing up this Question.

For the CS to stop further registration of new schools, he is not following what is happening on the ground. Population is not static. I just want to challenge the CS that he should look at his household. I am sure he has children and grandchildren. His children are fewer than his

grandchildren. Therefore, we are expanding these schools because we have many more children who are going to schools as opposed to schools that were built much earlier.

The Ministry of Education is under a lot of confusion. If you look at how they hire teachers, they have given preference to interns, who must be 35 years old.

Hon. Deputy Speaker: Now there is no relevance there. Let us stick to what the Question is about. If you have an issue on interns, ask the Question. Let us leave it there.

Hon. Members, I am sure all of you have the same concerns. What is the suggestion you want to make, Hon. Ferdinand? I will then make a ruling on that particular Question separate from the rest.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Deputy Speaker, thank you for the chance. My suggestion would be, let the Cabinet Secretary be directed to come here. Everybody is concerned about whatever he has done. I would ask the Speaker to direct the Departmental Committee on Education and Research to call the Cabinet Secretary before us to have a caucus meeting with him so that I can tell him what is happening. The guy is irrelevant.

Hon. Deputy Speaker: I have heard you, Hon. Ferdinand. I want to know from Hon. Omboko Milemba, a member of the Committee, on when the Cabinet Secretary is appearing before your Committee in the House here so that we are able to ask Members to be present to prosecute their issues. These are COVID-19 times. We cannot be saying that we want students to observe social distancing while lumping them in one school by saying that we are not going to register new schools. There are quite a number of concerns which are very valid, including 100 per cent transition and the fact that it is not the Teachers Service Commission (TSC) complaining but the Ministry. I would think Tuesday next week would be ideal to ask the Cabinet Secretary to appear before the Committee, because we are going on recess. Members need to know publicly the particular date he will appear before the Committee so they can prosecute their issues.

Hon. Omboko Milemba, representing the Committee.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Deputy Speaker. Given the weight of these issues and the fact that the Chairperson is not here, and I will have to consult him, I ask you to give us seven days. If Tuesday fits within the seven days' notice the better. I know if we give him a notice that is shorter than seven days, he will have a chance to wriggle out. So if you can give us seven days from now, I will tell the Chairperson to call the Cabinet Secretary.

Hon. Deputy Speaker: So, then, we fix the appearance for Wednesday next week.

Hon. Omboko Milemba (Emuhaya, ANC): Very well.

Hon. Deputy Speaker: On Wednesday next week, the CS should appear before the Committee and Members who have issues be ready to come and prosecute your specific issues together with what Hon. Omuse asked. We will have it as a session for answering the Question and we give an opportunity to Members. The CS should come for that Question alone. Even if he has any other questions before the Committee, on that particular day he will be coming to respond to the order not to register new schools.

Let us proceed to the next Question, which is by the Member for Mogotio, Hon. Tuitoek.

Question 330/2021

POLICY ON USE OF SCHOOL BUSES BY COMMUNITIES

Hon. Daniel Tuitoek (Mogotio, JP): Thank you, Hon. Deputy Speaker, for giving me this opportunity. Before I ask my Question, I would like to note that we were with the CS for Education

yesterday. The way he was responding to Members' questions was not very good. I hope next Wednesday he will do better. My Question 330/2021 to the Cabinet Secretary for Education is as follows:

- (i) Could the Cabinet Secretary explain the policy regarding the use of school buses by communities around educational institutions, particularly those acquired with assistance from the National Government Constituencies Development Fund (NG-CDF)?
- (ii) Could the Cabinet Secretary also explain reasons for the recent ban on the use of school buses by communities living near learning institutions?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That Question will be replied to before the Departmental Committee on Education and Research but it will not be part of the matters to be answered on Wednesday. They will get another day for you. If there will be opportunity, you can still have it the same day.

The Member for Sigowet/Soin, ask your Question.

Question 331/2021

STATUS OF BILATERAL AGREEMENT BETWEEN
KENYA AND THE UK ON HEALTH WORKERS

Hon. Kipsengeret Koros (Sigowet/Soin, Independent): Thank you, Hon. Deputy Speaker, for this opportunity. I rise to ask Question 331 of 2021 directed to the Cabinet Secretary for Labour and Social Protection:

- (i) Could the Cabinet Secretary provide the status of the recent bilateral Agreement regarding health workforce collaboration signed between the Republic of Kenya and the United Kingdom and Northern Ireland which was signed during the latest official visit by His Excellency the President to the United Kingdom?
- (ii) Could the Cabinet Secretary also provide details of the exchange programme between the two countries as per the signed Agreement, highlighting the specific cadres of Kenyan healthcare workers to be involved in the exchange programme, the selection criteria to be applied, the Ministry or Agency to be responsible for the recruitment, and whether it will be a one-off programme?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That Question will be replied to before the Departmental Committee on Labour and Social Welfare. Next is the Member for Sigor, Hon. Lochakapong.

Question 33072021

IMPLEMENTATION STATUS OF SIGOR WEIWEI
INTEGRATED DEVELOPMENT IRRIGATION PROJECT

Hon. Peter Lochakapong (Sigor, JP): Thank you, Hon. Deputy Speaker. I rise to ask Question 337 of 2021 directed to the Cabinet Secretary for East African Community and Regional Development:

- (i) Could the Cabinet Secretary provide the implementation status of Sigor Weiwei Integrated Development Irrigation Project Phase III, which was officially launched by the President on 2nd November 2016?
- (ii) Could the Cabinet Secretary explain why the said project has stalled despite assurances by the President that the project would be completed within a year?
- (iii) Could the Cabinet Secretary give the timeframe within which this project is expected to be completed?
- (iv) Could the Cabinet Secretary further explain how funds meant for conservation of Korellach area in Sigor Constituency, a catchment area for the Sigor Weiwei Integrated Development Irrigation Project, were utilised, indicating the allocations made and payments made so far?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That one will be replied to before the Departmental Committee on Environment and Natural Resources. Next is the Member for Saboti, Hon. Amisi. You see, if Members came with their cards it would make it easy for them to be located. If you have a question and you do not have your card, it becomes a big issue.

Hon. Caleb Amisi (Saboti, ODM): Thank you, Hon. Deputy Speaker. I think my card is working. Maybe the problem is on your side.

Question No.348/2021

CONSTRUCTION OF YOUTH EMPOWERMENT CENTRES

Hon. Caleb Luyai (Saboti, ODM): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for ICT, Innovation and Youth Affairs the following Question: -

- (i) Could the Cabinet Secretary provide a list all Youth Empowerment Centres that have been constructed across the country in the past four years, indicating their locations and their completion status?
- (ii) Could the Cabinet Secretary indicate the number of the centres projected for construction in the current financial year, and specify constituencies where they will be located?
- (iii) Could the Cabinet Secretary outline the measures that the Ministry has put in place to ensure that the said centres are constructed to the required standards, well equipped and operationalized in all the 290 constituencies?

Hon. Deputy Speaker: Very well. That Question will be replied to before the Departmental Committee on Communication, Information and Innovation.

Hon. Deputy Speaker: The last Question is by the Member for Laikipia North.

Question No.321/2021

STATUS OF TEACHERS' RECRUITMENT IN MARGINALISED AREAS

Hon. (Ms.) Sara Korere (Laikipia North, JP): Hon. Deputy Speaker, I rise to ask the Teachers Service Commission the following Question: -

- (i) Could the Chairperson provide the status of teachers' recruitment in marginalised areas across the country?

- (ii) Could the Commission provide the number and details of teachers who were recruited in the just concluded recruitment exercise from Laikipia North Constituency?

Hon. Deputy Speaker: Very well. That is a Question for a written reply by the Teachers Service Commission.

We have come to the end of that particular Order. So, we go to the next one.

BILL

Second Reading

THE ALCOHOLICS DRINKS CONTROL (AMENDMENT) BILL

(Hon. Silvanus Onyiego on 4.8. 2021)

(Debate concluded on 11.8.2021)

Hon. Deputy Speaker: On this particular one, we had concluded the debate on it. Noting that we have the requisite quorum, I go ahead to put the Question.

(Question put and agreed to)

Hon. Members, on Order No.9, I wish that we defer it pursuant to Standing Order No.131 to allow the Chair of the Departmental Committee on Agriculture and Livestock to call for a meeting with Members with amendments for a process of harmonising the amendments before the Committee of the whole House is taken. Any other Member with amendments is advised to attend the said meeting and prosecute their amendments. The Committee, thereafter, should be able to table an addendum to the report indicating the decisions taken on each specific amendments proposed by Members. It is so directed that that particular Order is deferred.

(Committee of the whole House on the Sugar Bill deferred)

BILLS

Second Readings

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

(Hon. Florence Mutua on 11.8.2021)

(Resumption of Debate interrupted on 11.8.2021)

Hon. Deputy Speaker: On this particular one, we have a remainder of one hour and 22 minutes. I want to see an indication on which Members want to speak. Otherwise, I will be picking randomly and maybe disadvantage you by picking you when you did not want to speak to it. Let us start with the Member for Nakuru Town East. Do you want to speak to this one? You do not

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even seem to know where you are. We go to Hon. Osotsi. He is not interested. Hon. Kositany is also not interested. Hon. Mbogo Menza, Member for Kisauni, is not interested. Hon. Waruguru on this particular one? Not interested. Hon. Shabbir seems not interested too. So, we might end up calling the Mover to reply.

Hon. Shakeel Shabbir (Kisumu East, Independent): Hon. Speaker, I am interested.

Hon. Deputy Speaker: Well, you just said you were not interested.

Hon. Shakeel Shabbir (Kisumu East, Independent): I did not.

Hon. Deputy Speaker: Okay, proceed then.

(Loud consultations)

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you, Hon. Deputy Speaker. On the issue of the Constitution Amendment Bill, there are a number of issues that have come up and we want to discuss and bring our input to the Campaign Financing Bill.

Hon. Deputy Speaker: Hon. Omulele, what is your point of order?

Hon. Christopher Omulele (Luanda, ODM): Hon. Speaker, I believe Hon. Shabbir has already spoken on this particular Business.

Hon. Deputy Speaker: Can I check the records?

Hon. Christopher Omulele (Luanda, ODM): Please, do.

Hon. Deputy Speaker: If that is the case, Hon. Shabbir – and you are a seasoned legislator – you will be in a lot of trouble.

(Loud consultations)

Hon. Shabbir, however, you can easily and clearly tell us whether you had actually spoken to it or not. If you did not, you know. I am sure you know about the Bill. This is Hon. Mutua's Bill.

Hon. Shakeel Shabbir (Kisumu East, Independent): I am sorry, Hon. Speaker. I have spoken on Hon. Mutua's Bill.

(Laughter)

Hon. Deputy Speaker: Hon. Members, I am going to call the Mover to reply to debate. We cannot flog a dead horse. I am aware that Hon. Florence Mutua is not in. She has requested that either Hon. Chris Wamalwa or Hon. Zuleikha reply to debate. What is interesting is the fact that she has appointed two Members. I would have thought that when you are absent you specifically pinpoint a Member you want to reply on your behalf so that we do not have confusion. Hon. Zuleikha, are you able to reply on her behalf? If so, proceed.

Hon. (Ms.) Zuleikha Hassa (Kwale CWR, ODM): Hon. Deputy Speaker. I beg to reply on behalf of Hon. Florence Mutua, the Busia County Women Representative.

I would like to thank Members for their valuable contributions and suggestions towards the improvement of the Bill. I undertake to input the proposed suggestions during the Committee of the whole House so as to enrich the Bill.

However, it is unfortunate that some of the remarks made by some Members border on politics yet this is not a party sponsored Bill. Some Members gave the impression that it was. This

Bill was initiated in 2019 and has been going through the usual parliamentary procedures since then.

Secondly, I personally propose this Amendment based on what I saw during and after nominations. Some Members alluded to and tried to misinform the House that this Bill has been made for some party leaders who want to come back to Parliament. I want to assure Members that no party leader wants to come to Parliament. It is evident that once a person is nominated and his name is gazetted, that in itself is as good as having the job already. It is against that background that those gazetted desert their parties during crucial times since they are assured of a job regardless and oblivious of the fact that it is the number of elected party Members that will determine the nomination.

This Bill proposes that candidates ought to campaign to the ballot. Thereafter, once the election dust settles, the party or relevant committee sits to determine who deserves to be nominated based on their support throughout the electioneering period. This will also ensure that where there are few or no women elected, women are nominated by the party to fill the gaps. However, when nominations are done prior to elections, women may be nominated where there are no gaps hence leading to unfair distribution of the already limited slots. Institutional memory is key in any organisation hence ranking members who may lose the elections can be nominated to fill the party positions without jeopardising the person who wins. This Bill does not in any way indicate that the second person or runners-up need to be nominated as was alluded to by some Members. The nomination criteria that we will set up is in the parent Act.

I appeal to Hon. Members to support this Bill since it will enable parties to know the number of slots they are eligible for when nominating candidates after elections.

I beg to reply. Thank you.

Hon. Deputy Speaker: That matter will be put to Question at a later date. Let us go to the next Order.

(Putting of the Question deferred)

THE LABOUR RELATIONS (AMENDMENT) BILL

Hon. Deputy Speaker: Let us have Hon. Ichung'wah.

(An Hon. Member spoke from his place)

Allow me to defer this particular one to a later date. Let us go to the next Order.

(Bill deferred)

What is your point of order, Hon. Gikaria?

David Gikaria (Nakuru Town East, JP): Hon. Deputy Speaker, I seek your indulgence with regard to the Order Paper. I request that you use Standing Order No.1 and move directly to Order No.18 on the Order Paper so that I can be... I am just seeking your indulgence because it seems most of these Members are not there.

Hon. Deputy Speaker: Hon. Gikaria, you are now a second-termer which is to say that you are fairly seasoned. Standing Order No. 1 is used sparingly when the matter in question is not governed by any other part of the Standing Orders. This one is fairly straightforward. We are

queuing and your Bill is in Order No. 18. If it is true, as you indicated, that some Members are not available, that will be known in due course. Allow us to see if indeed those Members are not there. If they are not there, we will come to you. If they are there, your request will fall flat on its face. Let us proceed to the next Order.

THE KENYA INFORMATION AND COMMUNICATIONS (AMENDMENT) BILL

(Hon. Elisha Odhiambo on 25.2.2021 – Morning Sitting)

(Resumption of Debate interrupted on 4.3.2021- Morning Sitting)

Hon. Deputy Speaker: Automatically, Hon. Gikaria's request falls flat on its face because there are available Members who want to speak to this. We are resuming debate and have an hour and 39 minutes. I want an indication of who wants to speak to the Bill. Members, be very careful.

(Loud consultations)

(The Deputy Speaker consulted with the Clerks-at-the-Table)

I see that there were only two Members who had spoken, namely Hon. Elisha Odhiambo, who was the Mover, and Hon. Jared Okelo, who was the Seconder. I do not see any other Member who had spoken to it, so I am not quite sure whether the Question was proposed. For avoidance of doubt, obviously...

(Loud consultations)

We are resuming debate. Let me see whether there any Members who want to speak to this. Please indicate your interest by pressing the intervention slot. I see eight Members on the request list, including Gikaria himself, whom I am sure is not interested in speaking to this one. Hon. Dawood? Not to this one. Hon. Menza Mbogo? Not to this one. Hon. Waruguru? Not to this one. Hon. Kipyegon? Not to this one. Hon. Member for Nandi Hills, Hon. Keter? Not to this one. Hon. Sankok, I am sure you will even speak to this one. Not to this one? That means that we call the Mover to reply. No. Hon. Sankok, surely you are not interested in this one. You said it yourself. You do not even know which one it is. I am sure you will not be speaking to it. We are considering the Kenya Information and Communications (Amendment Bill). Let me call the Mover to respond, namely, Hon. Elisha.

(An Hon. Member spoke from his place)

He is not even there. When we again consider the Bill, it will be his time to reply. We will not be opening debate on that. It will be his time to reply. Let us go to the next Order.

(Bill deferred)

THE KENYA FOOD AND DRUGS AUTHORITY BILL

Hon. Deputy Speaker: Is that Hon. Pukose? Very interesting. He never misses a sitting. He is not in today. We defer that one.

(Bill deferred)

Let us go to the next Order.

THE EMPLOYMENT (AMENDMENT) (NO.2) BILL

Hon. Deputy Speaker: That is the one by Hon. Gideon Keter. He also seems to be absent. Let us go to the next Order.

(Bill deferred)

THE KENYA DEPOSIT INSURANCE (AMENDMENT) BILL

Hon. Deputy Speaker: That is the one by Hon. Dawood. Is he in? Are you sure? Proceed.

Hon. Rahim Dawood (North Imenti, JP): Thank you, Hon. Deputy Speaker. I appreciate the other Members not being there, so that I can at least move my Bill. This is the Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020). This Bill has taken me three years because I brought it to Parliament in 2018. It has stayed, gone to the Departmental Committee on Finance and National Planning and the Budget and Appropriations Committee and got lost along the way.

This Bill is for the people. We are trying to change what is given to depositors who have deposited money in banks which fail. The current Act has been in place for more than 20 years and we want to change it. It states that if a bank folds up, you are only given up to Kshs100,000. If you have two or three accounts, they are all consolidated, so that you only get Kshs100,000 whether or not you had more.

When I first suggested this Bill in 2018, the Kenya Deposit Insurance Corporation (KDIC) changed the regulations in 2020 and raised the amount to Kshs500,000. The law has never been changed and has remained the way it is. The current Act states that it is only Kshs100,000. That is the reason why I have brought this amendment Bill, so that it is part of the law as an Act of Parliament.

The reason for bringing this amendment Bill is very simple. In recent years, there have been more than 20 institutions which have folded up. Some go all the way back to 1993 and I would like to read them. Trade Bank went under on 18th August 1993 and the Middle East (Africa) Bank went under on 20th August 1993. I can go all the way up to when the Leader of the Majority Party was the Minister for Finance. During his tenure, there were some banks which collapsed. There was the Dubai Bank prior to him getting into office, and Daima Bank in 2005. It was not that he was in charge of those banks. There was Trust Bank in 2001, Euro Bank in 2003 and Prudential Building Society in 2005.

Hon. Deputy Speaker, the issue we are dealing with here is to raise the amount that a person can deposit into a bank account. When I presented it to the Departmental Committee on Finance and National Planning, the Budget and Appropriations Committee (BAC) and the Parliamentary

Budget Office (PBO), they made a proposal and looked at the pros and cons of this Bill. There are so many people out there with money. The value of money has declined such that people will have not less than Kshs500,000 in their accounts. What happens is that if somebody has put Kshs600,000 into a bank account and the bank collapses, that money will never be refunded because he will get only Kshs500,000 at the current rates because of the Regulations. However, what if the Regulations are changed by the CEO or the Central Bank of Kenya (CBK), because that is not a confirmation that you will be given that kind of money?

Today all the presidential candidates are speaking about small people's economy, be it the Deputy President, the former Prime Minister, Hon. Musalia Mudavadi and Hon. Kalonzo Musyoka. They are all talking about the common person and the economy. However, once we do not have a structure where depositors can get back their money, it is a drawback and will not work.

The PBO did an analysis of this Bill and came up with very good suggestions. They said that once this Bill is enacted, people will have confidence in putting their money into bank accounts. At the moment, people can only deposit up to Kshs500,000 and keep the rest of their money in their houses or somewhere else that is not profitable or safe. The PBO came up with a chart where they said if this law is enacted and deposits are in the accounts, the first year we will get an extra 20 per cent as savings in the banks and every subsequent year we will have an extra 10 per cent for people depositing more money in their bank accounts because they are sure if a bank collapses today, they will get their money back.

I have even proposed in this amendment that if somebody has two or three accounts, they should not be consolidated. Each account should stand on its own. That is the trust accounts. The Kenya Deposits Insurance Corporation (KDIC) gives money to individual accounts and not consolidated ones. I am requesting my colleagues that we should pass this Bill into law. Today if you were to ask any small trader, be it in Gikomba, Meru in Gakoromone or the Small and Medium-Term Enterprises (SMEs), they will not have less than Kshs500,000 in an account. This is because probably they have sold all their wares and have the money waiting to be invested.

In case a bank is bankrupt, it means all that money will go and they will just be given Kshs500,000. That is why I have said they should be given Kshs1million. In South Africa, where they have a similar rule, they give a minimum of Kshs625,000. In the Republic of Ireland, they give 100,000 Euros as deposit protection. It has changed from 30,000 Euros from 1990 and to date it is 100,000 Euros. We as a country passed this in 1989 where we were giving Kshs100,000. However, it was changed a year back when we revised the regulations and said we are giving Kshs500,000.

Two years back, during the liquidation of Chase Bank, the CBK, together with Dr. Njoroge with the KDIC, approved a payment of Kshs1million for the depositors. That figure, which was approved by the CBK, was not picked out of nowhere. They knew that was what was current then. The value of Kshs100,000 that was deposited in 1990 would be more than Kshs1 million at today's rate.

[The Deputy Speaker (Hon. Moses Cheboi) left the Chair]

[The Temporary Deputy Speaker (Hon. Christopher Omulele) took the Chair]

So, changing the Regulations to increase the amount from Kshs100,000 to Kshs500,000 is acceptable. That is a Regulation which can be changed at any time. So, once we put this in place, we will have more than Kshs4.5 trillion of deposits, which will ensure a saving culture. In the end

we will have more people saving and doing more business. This will mean more money and the Kenya Revenue Authority (KRA) will collect more revenue. I believe if we do this, we are on a golden path.

The other issue we need to tackle in this country is with regard to bank failures. It takes so long for people to be paid their deposits. Chase Bank took nearly two years. So, I have put it in this Bill the maximum amount of time at six months. I am really surprised by the Departmental Committee on Finance and National Planning. When I presented this Bill to them, I was very optimistic because the whole Committee supported it.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Dawood, you need to put on your mask.

Hon. Rahim Dawood (North Imenti, JP): I am sorry, Hon. Temporary Deputy Speaker. When I presented this Bill to the Departmental Committee on Finance and National Planning, where I used to be a Member until late last year, they were very enthusiastic about it. They even made more suggestions and said they would bring them to the House. Unfortunately, I have seen their Report saying that this will not be a good thing. The reasons given are very shallow in the sense that they just took the word of the KDIC CEO, Mr. Mahmud, whom I have nothing against. He said that this will create a big issue in the finances.

However, prior to this year, there was a new way of raising the deposits insurance funds from banks. Previously, it used to be at 0.15 per cent of the total deposits that depositors have put in a particular bank. They are now going according to the Risk Based Model, where banks will have to pay more money into the KDIC Fund. Currently, they have more than Kshs130 billion. The KDIC is holding onto funds and every year they collect a lot of funds.

Due to the risk-based insurance scheme, if they are sure banks will not fold up because they have done everything including the Central Bank of Kenya (CBK), the amendments should be moved in law legally, not through regulations but through an Act of Parliament so as to raise the amount from Kshs100,000 to Kshs1 million. The other thing is that I am willing to sacrifice a clause in the Bill stating, if somebody has more than one account, they should be consolidated. I am willing to give this away because people will open many accounts so as to spread the risks.

I agree that moving the amount from Kshs100,000 to Kshs1 million is an important move. Once we have this Bill as an Act, it will instil confidence in bank deposits so people will not keep their money under their mattresses the way they used to or bury it. Many years back, there was a gentleman from Laare in Meru County who did not trust the bank system. He buried his money underground and before passing away, he told his sons where it was buried. When they dug out the money it had already been eaten by termites. We should not go that way again. There are many people who keep their money because they do not trust they will get more than Kshs100,000 or Kshs500,000 when they need it. I want to encourage my colleagues to support this, Bill. It is not for the rich depositor but the common depositor with less than Kshs1 million in a bank, institutions like a building society or others regulated by the CBK.

With those many remarks, I ask Hon. Sankok to second this Bill. I request my colleagues to support it because I think this is something for the people by the people.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Dawood, you think or are sure that it is by the people. Very well, Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to second this very important Bill. I am not able to stand for long because my carry bars are broken and I am standing on one leg.

Hon. Dawood Rahim has come up with a very progressive Bill which I beg to second. It is very important because he has done his scientific analysis by raising the deposit guarantee from Kshs100,000 to Kshs1 million. Looking from the face of it or even from a layman's angle, today with Kshs100,000 you can only buy two cows of Kshs50,000 each and yet, when this Act came into place Kshs100,000 would buy 20 cows. Raising it to Kshs1 million translates to the ability to buy 20 cows of Kshs50,000 each. So, it is scientifically analysed and that is why we should raise this deposit insurance guarantee fund from Kshs100,000 to Kshs1 million.

Hon. Dawood said we need to encourage a culture of investing in this country because it has gone down over time. We are now in a social society where we are targeting funds to socially protect people who had an opportunity to invest but did not probably because of these uncertainties. We have the cash transfer to the older persons, targeting to socially protect them because they did not invest when they were in employment or business. This is because the culture of investment has gone down or maybe because of uncertainties.

It was just recently that we had to change our currency because the CBK thought people were hiding a lot of money under their mattresses in their houses. Maybe we are shying away from banks because of what Hon. Dawood has seen that there are a lot of uncertainties concerning depositing in our banks and investments. You have heard claims of people carrying money in sacks to banks instead of cheques because of such uncertainties although those who claim people are doing so have never taken theirs in paper bags and were rejected by the churches. This is because people are carrying cash in large sums of money and are not depositing because of these retrogressive laws which Hon. Rahim is trying to cure.

Hon. Dawood Rahim has done international comparisons with South African and Ireland. From a scientific view, he is right by raising this amount from Kshs100,000 to Kshs1 million. I therefore support this Bill because he is right. We need to improve and ensure that all the money deposited in banks is guaranteed and secured. As MPs, we are here to protect our citizens and especially when it comes to their finances. He has given examples of so many banks like Post Bank and others which went under. When they go under, they do so with a lot of depositors and investors' money. Very many dreams of people who have toiled and worked hard have been shattered because they deposited their money in banks that went under. I support and congratulate Hon. Rahim Dawood for having done his groundwork and a lot of research when coming up with this Bill.

With those very many remarks, I beg to second and plead with Members of this House to support us in this Bill. I ask the people from the larger Meru to consider Hon. Rahim Dawood not only as their MP but future governor. This is because of his ability to safeguard money deposited in banks by Kenyans. I am sure he will also safeguard the money allocated to Meru County. I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Shabbir, Member for Kisumu East.

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you, Hon. Temporary Deputy Speaker. The Bill seeks to amend the Kenya Deposit Insurance Act to cover the increase from Kshs100,000. With Legal Notice No.169/2020, it was increased to Kshs500,000.

Secondly, the Bill was intending to maximise the different accounts in consolidation which now the presenter of the Bill is proposing to delete. The third was to have some benefits in respect of this.

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I am a member of the Departmental Committee on Finance and National Planning. The issue was presented to us and during public participation, the Kenya Deposit Insurance Corporation came to see us. They were the only ones who came before us to give a presentation. There is no question that the depositors' deposits must be protected. The Ksh100,000 is a miniscule amount and what the proposer is suggesting is to go up to Ksh1 million. In essence, it is good but the problem that was presented to us, the Departmental Committee on Finance and National Planning, is that the Kenya Deposit Insurance Fund has only Ksh130 billion in funding against a potential of nearly Ksh1.9 trillion. That brought us to a proposal: that the insurance scheme that banks must put a certain amount of money towards the Kenya Deposit Insurance Fund. It should be increased thereby increasing the cost of capital. Instead of putting a certain percentage to cover Ksh500,000 as an insurance scheme, the banks have to increase that amount and the premiums too.

As the premiums increase, the rate that the banks charge the public increases too hence there is a financial constraint to the *wananchi* and not to the bigger boys. The *wananchi* look for smaller loans. They said very clearly that they would like to cover up to a million shillings, but that would mean that our sinking fund must be a trillion shillings. To raise that trillion means raising the cost of banking for *wananchi* because you are going to ask for a higher premium from the banks. Either that, or through the Budget, we put aside another Ksh900 billion in what is the safety net. This proposal was presented to us.

I have been a banker for a long time. The proposal here is to put it in a Bill. There is already a legal notice increasing it to Ksh500,000. There is nothing stopping that legal notice to take it to a million shillings, but we should do it in steps. We should do it in consultation with the Budget and Appropriations Committee, the banks and the Central Bank. The main role of the Central Bank is prudential supervision and regulation of banks to avoid overexposure. The problem that we had with these so-called banks that went under is that they were not properly secured, managed and regulated. All the banks that we talked about took deposits and then broke the rules. The CBK should have been able to capture and close them down before they were put under receivership.

So, what we have here is a case where you over-insure and the CBK's one main role of prudential supervision is thrown out of the window because then they will say, "We do not care". There are certain rules that we have to maintain. There are certain regulations that we must have as banks. If you are the bank that is going to give a certain percentage of insurance and cover the depositor, then you see the CBK's role of exposure, regulation and prudential scrutiny will relax. We felt that this is a twin system. It is a balancing role. You want to insure only for what you can insure.

Hon. Temporary Deputy Speaker, you have a vehicle. When you insure your vehicle for, say, Ksh10 million because you feel that if you lose that vehicle you want to get another one for Ksh20 million... So, if you insure your vehicle for more than the value of the vehicle, the cost of the vehicle is going to increase. I think in the same manner, I feel as a banker that deposit takers must be held responsible for the deposits. I feel that Ksh1 million or even Ksh2 million is appropriate and there should be something increasing in accordance with inflation, the rate of deposits, and the propensity to save.

We have to balance this with the role of the Central Bank versus the role of the insurance. You cannot have an over-insurance premium that is going to increase the cost of borrowing. So, I am in a quandary. Hon. Rahim has in mind every thought to save the small depositor. We are all for it. We are asking: how do we do it without increasing the cost of capital and the cost of lending to the *wananchi*? If there was a system we could employ, I probably would be 100 per cent for it,

but here you are trying to talk about a sinking fund of Ksh130 billion versus a potential of Ksh1 trillion. Hon. Rahim is telling us that the potential of deposits can go up to over Ksh4 trillion. So, even if it goes to over Ksh4 trillion, if you are a banker, an insurer, or an actuarialist, you would want to work out a percentage of, say, Ksh1 trillion. How much will that be and how much would be the sinking fund that the KDIC should be holding? There is no point of saying a million shillings and yet one has, say, Ksh130 billion in the account. So, if the bank goes under, the whole sinking fund is finished. So we want to put it together.

First, is the National Treasury through the Budget and Appropriations Committee able to raise the sinking fund to Ksh1 trillion? If that is the case, what is the actual risk involved? Secondly, do we put the percentage of the bank's requirement to a certain percentage that will raise the sinking fund to Ksh1 trillion?

So, Hon. Temporary Deputy Speaker, I support this Bill, but for the reasons of practicality, it cannot happen this way. Let it go through a legal notice that can constantly be regulated by the CBK and this House. I support but with those reservations.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Tong'i Nyagaka, Member for Nyaribari Chache.

Hon. Richard Tong'i (Nyaribari Chache, JP): Thank you, Hon. Temporary Deputy Speaker for the opportunity to speak to this amendment, which I think is very timely. The Bill is by my good friend and brother from another mother, Hon. Rahim Dawood, a man I have learnt to respect a lot.

This is coming at a time when Kenya needs this kind of an amendment considering that in the past we have had to suffer as a country. Many people have lost a lot of money to banks which have gone under receivership because the law then provided for a maximum refund of Ksh100,000. As a banker, I will tell you from experience that there are people who deposit quite a lot of money in the banks. People put in a lot of their savings knowing that a bank is the safest place to keep one's investment. Some of them have kept money which is meant for treatment, retirement benefits, or an insurance scheme for their school-going children. They all have different reasons for putting money in their accounts in banks. In the event that the bank where they have entrusted their money in the name of deposits goes under, the beneficiary or customer suffers immensely. Some of the customers have died from shock because they cannot bear the loss and the idea that they will not get back their money, which they have worked so hard for. It could be their pension money which they had put in the bank.

The other cure that I see coming from this amendment Bill is that we will encourage people to deposit money in their accounts instead of keeping it in their houses. They will trust the banks to keep their money, so that it is safe and secure. From experience, I know of so many Kenyans who, out of fear, have decided to convert their houses into investment banks where they keep their money. It is because they fear that if they put the money in the bank, it will be lost. This amendment Bill will somewhat go a long way to ensure that we are spreading and sharing confidence with Kenyans, so that they can appreciate the virtues that come with putting their money in the bank, which is a decent thing to do. It is where the world is headed to. Decency demands that you put your money where you can use it as collateral. When you have it in the house, you cannot use it to secure yourself a loan in the event that you have an emergency which urgently requires more money than what you have as deposits.

I see this amendment Bill also helping the small banks which have suffered a lot because the most serious customers fear putting their money there. Remember, even institutions such as the National Government Constituencies Development Fund (NG-CDF) Board lost almost Ksh450

million to a bank which went under. That is a lot of money that we lost as a country. I am sure they are putting systems in place to ensure that we recover that money. However, because we did not have this provision then, we now have to work backwards to get a way of remedying and recovering that money. If institutions have lost money of that magnitude, you can imagine what happens to an individual investor who has...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Richard Tong'i, please, wear your mask correctly. It is good for you.

Hon. Richard Tong'i (Nyaribari Chache, JP): Thank you, Hon. Temporary Deputy Speaker. I was struggling to breathe. That is why I removed it temporarily, but because breathing in the hospital is worse than struggling here, I respect your guidance.

As I was saying, there are people who have lost money and have lost confidence in small banks. We are a small and emerging country. We need to assure people who have capital that they can start small micro-finance institutions or a bank and attract customers. If we do not do that, we will rely on the multi-national banks which have already established themselves and can only do so much. We need banks coming up and, if possible, every county coming up with its own bank. Whenever they have a big transaction, they can merge. The banking industry allows banks to team up and serve a big customer who would need much more money than they can raise as an individual bank. If, by way of this Act, we encourage banks to come up in every part of Kenya, which will eventually grow up to be the Equity of days to come, that will be a good thing to do.

Two things will happen. One, we will create employment by having those institutions because people will have to be employed to serve customers. Second, we will also spread financial literacy and accessibility to our people. They will also have the opportunity to be served by people who understand them and their language. This will enhance the confidence that Kenyans would need to trust the banks and deposit their money there. That way, we will be able to measure the wealth of the country and know for sure, for purposes of planning, how that can be converted and how we can then plan for those kinds of individuals or the economy that we have because what is in the bank is easily assessed and evaluated by the Central Bank of Kenya.

There are many benefits which come with this amendment Bill. This Ksh1 million is not good enough, but it is a good step in the right direction. As the economy grows, we will amend this to cover a bigger portion, chunk and risk because that way, we will take care of the middle-income earners in the country. Kenya is slowly but surely getting into middle-income status which then means that there will be many Kenyans who will be multi-millionaires and would want to have better security and safety which this Kshs1 million cannot give.

As I wind up, I can give an analysis of other institutions in the world where the law has been amended and because of that, they have opened up their banking industry to many more people. South Africa is one such example. They came up with the guarantee of deposits and because of that simple act, there are more bankable South Africans today than there were before that amendment. When customers deposit their money in the banks, they are sure that their money is in good hands. Ireland has done the same. They have also increased their deposits and guaranteed them by way of insurance, so that the customers do not lose anything whenever they put their money in their accounts.

As we do this, we also need to take into account the premiums being paid to insurance companies. If we grow the number of bankable Kenyans, it follows that the insurance premiums will go down. When the premiums go down, the cost of transactions and the cost of banks using those premiums or insurance will go down too. We urge banks to pass on that benefit to the

customers because that way, we will all have a win-win situation for both the bank and the depositor.

I had a chance to work in one of the most gracious banks in this country - the Cooperative Bank. It is one of the banks which was able to grow from a loss-making institution of almost Ksh3 billion to maybe the second biggest bank in Africa. That is a demonstration of what Kenyan managers can do. Gideon Muriuki is on record as having transformed that bank from a loss-making institution into a very profitable bank. That is why we should encourage more local managers like the Joshua Oigaras of today. I am happy that even Safaricom has picked a local manager. Kenyans have the capacity to translate, convert and change the fortunes of banks or institutions they work in. That is a good way of encouraging young Kenyans who are out there...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Richard Tong'i, you have been caught up by time. Let us now have the Leader of the Majority Party, Hon. Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to concur with the Committee in urging the House to, unfortunately, reject this Bill.

I appreciate the input by Hon. Dawood. It is, indeed, important to balance the solution to your problem with the potential risks that that solution could bring and create a bigger problem. For example, if you are having headache, you do not want to take an overdose of medication that could bring further complications than the headache you want to cure.

The first thing is to appreciate that the Bill is attempting to increase the limit from Kshs100,000 to Kshs500,000. By 28th August 2020, this limit was already increased officially through a Gazette Notice to Kshs500,000. So, let us start from there. The amount that is protected has already been increased through regulations to Kshs500,000. First of all, it is a very recent review and it took into account the amount of money that the Kenya Deposit Insurance Corporation has at its disposal and the experience that we have gone through. So, increasing it to Kshs500,000 is already a very current move. It may be too soon to then start reviewing the amount upwards without looking at what the implications of doubling that amount would be.

We are talking of Kshs130 billion that they have. So, if we now raise it to Kshs1 million and increase the number of risk takers who put their money into smaller banks on the false assumption that they are now protected... The potential exposure has been calculated by the Kenya Deposit Insurance Corporation who appeared before the Committee, at Kshs950 billion. This is not money that will come from the depositors. This is money that will have to be appropriated by this House. So, we are putting the whole country at risk through encouraging some risky behaviour in terms of telling people that they can now put their money into small banks because they will get up to Kshs1 million back.

We all know the role played by financial institutions in this country, and Hon. Dawood gave us a history of some of the banks that failed. However, it is the intention of the Kenya Deposit Insurance Corporation to stop banks from failing or protect the small depositors who find themselves in these situations because they thought that a bank was good, but unfortunately, the bank fails. So, at least, let them get something back. Deposit insurance is not meant to protect the big savers. It is for the small savers who do not have full information in terms of analysing where they are putting their money hence end up being like wood. For instance, when there is a new bank, they may just put their money there, after which the bank fails and they collapse.

Going back to history, deposit insurance was started in the United States of America (USA) way back in 1934. This was as a result of so many failures following the 1930 great depression. That depression created failures in banks and it was nothing to do with the behaviour of the banks themselves. People ended up losing their monies like it happened in 2008. If you look at our

situation in the 1980s, our banks mainly collapsed because of political machinations and also because some of them were used as conduits to move money from the National Social Security Fund (NSSF) and the National Hospital Insurance Fund (NHIF) for political reasons. After the money had moved from the public coffers, through the banks, to finance, for example, some fake properties and titles in Karura Forest, the owners of the banks mysteriously disappeared. They made sure that you would not follow up to get the NSSF monies that went through some of those banks.

Based on the experience in the USA, several countries then took advantage of looking at this model and said: “Deposit insurance is a good way to protect bankers, especially when it turns out that some of these events have nothing to do with the banks.” As of 2017, there were almost 140 countries which had established deposit insurance corporations and another 28 countries were in the process of establishing insurance schemes. So, it is something that is good, but we must remember that even a good thing has limits as to what you can do to it before you make it bad.

If you look at the real objectives of the deposit insurance schemes, the first thing is that the Central Bank or the regulators have the fundamental responsibility to ensure that we have a stable financial system. So, the deposit insurance scheme is only part of the variables that help to enhance the stability of the financial system. It is not the only variable that we have in place. There is the prudential regulation by the banks and the behaviour of the customers, managers and owners of the banks. All those things come into play. In the event that all those other variables have been operating in good faith, but the bank still collapses because of something else, then the insurance comes into play.

This Bill is trying to make the insurance more important than the wider prudential regulation. This is what brings in this complexity or something that is generally referred to as moral hazard. It is where you could actually encourage bad behaviour and irresponsibility in choosing a bank because, for example, you may have Kshs1 million and say that so long as you can get it back through insurance, it does not matter which bank you put your money in. This will encourage rogue banks to tell everyone to just deposit their money with them because they are covered by the insurance. That is why the limits are put at a rather small amount so that you encourage the behaviour of the saver and you also discourage some rogue banks from going to the market and encourage people to save with them. That is exactly why we have the pyramid schemes.

Pyramid schemes disappear with people’s money because they prey on the vulnerability of people wanting to make quick money. Even all these banks that have closed, if you remember, they were encouraging people to save with them with a promise of giving them some very high interest rates. It is all about working on the vulnerability of people thinking that they can go to a certain bank and get very high interest rates, they then put their money in their bank and the bank would collapse. Remember, one would put Kshs1 million and would get Kshs1 million back. Somebody else would think that people are putting their millions of shillings and getting back the equivalent amounts and then go and put Kshs10 million. They eventually lose Kshs9 million because they only get a maximum of Kshs1 million.

So, we need to protect the wider society from the risky behaviour by some banks of telling people that they will not lose their money regardless of the bank they put their money in. These small banks, especially the high risk ones, have that tendency of behaving like pyramid schemes. They want to go out to market and tell everyone, “Come, we will give you high interest and all these other products. In any case, you cannot lose because the KDIC will pay you back up to a million”. Now, the bigger risk is obviously the fact that, as you bring in the one million saver, you will also be attracting people to put in bigger amounts and they all lose it. This is because the guys

are not exactly very genuine in their business and because of that risk, we must look at the global practice. You do not use insurance to manage banks. You use insurance to protect against the unforeseen circumstances that could create a loss. You also look at those people to really protect the small savers, not the big saver. The big saver could also be part of that collusion.

The other thing is that whole point of whether we are creating some beneficiaries from this situation or only looking at that risky behaviour. I think I have covered that point. A more fundamental thing that I raised earlier, Hon. Shakeel raised it too because he is a Member of the Committee, is why we want to expose ourselves by losing the Kshs130 billion we already have. We are increasing the risk to another Ksh950 billion just because people have been lured by banks to go and put their money into those banks. The money disappears with the owners of the banks. Remember we are not talking of recovering that money from the owners. There is a risk that the money could just disappear. We have seen it. Why should the public, through the KDIC, be made to pay for rogue bankers who open up these banks not necessarily to create banks to offer intermediation services but with the intention of defrauding that money? We must reduce that risk.

On this whole concept of having smaller amounts, if you look at the Nigerian currency, the biggest note is 50 Naira. It means very little. Ghana uses the Cedi. The reason it is kept so small in Nigeria is that the cost of forging becomes more expensive than the money itself. When you have bigger notes, you are encouraging people to forge those notes because the cost of manufacturing is less than the value you will get. Going by the same basis, if the benefits are so huge, they encourage people to manipulate. If you keep the benefits so low, you discourage people from that moral hazard situation. I think this is exactly the rationale to start us getting through this matter. I am trying to make this issue complex so that I can persuade Members to see the thinking of the Committee. Much as I really appreciate the work put in, I urge that there is no point in proceeding then we have a deletion of all the clauses only to bring it to zero. Let us reconsider it. I will be looking if there is a way we can salvage this situation. Certainly....

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Leader of the Majority Party, you will have one minute.

Hon. Amos Kimunya (Kipipiri, JP): The Kshs500,000 has already been updated. We do not need to update it so far.

I simply cannot see the logic of the second issue of payment within six months. The current law says the payment should be done within 30 days. I cannot see the logic why we would be saying, "Do not pay in 30 days; pay in six months". This is an automatic deletion. Obviously, the fine does not arise because we have already provided for 30 days. The only thing that is convincing is whether we should be paying Kshs500,000 or Kshs1 million. I cannot see any case that has been brought as to move into that direction without encouraging the risky behaviour.

I urge the House that we make that decision at the appropriate time because the Bill is now with us. It is no longer with the Mover. We would have asked him to withdraw it. The House will have to agree with the Committee that we reject this Bill in its entirety. I thank the Member for the efforts although they might end up with more risk to the Kenyan people who we, as a House, need to protect.

With those words, I beg to oppose.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Leader of the Majority Party, you have an onerous task but you have discharged it. I will now give opportunity to Hon. Rosanna Passaris, Member of Nairobi.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker.

As I sat and listened to the Leader of the Majority Party, I felt a bit confused. As a House, we are here to look at the interests of every citizen, whether rich or poor. I know that this Kenya Deposit Insurance (Amendment) Bill wants to raise the amount from Ksh100,000 to Kshs1 million. What is Ksh100,000 today? It is nothing. It is good that we have moved it to Ksh500,000 and it will be repayable within one month. To be quite honest, when I looked at the people that lost money, for instance the most recent case is the Imperial Bank, families were thrown apart. Even our little SACCOs of 20, 30 or 100 people have two or three million shillings that they have struggled to save hoping to buy property and, probably, send their kids to school. Can you imagine when you go to tell them that Parliament has allowed only Ksh500,000!

Parliament is not able to tighten all the loopholes that lead to unscrupulous bankers operating in this country. There is no way we should have fear that if an institution is licenced and it does a huge strategic marketing plan to attract depositors, who are Kenyans and also our voters and we raise this money, it could take advantage so that you who deposits Ksh10 million will lose your Kshs9 million. Nobody should lose money. Nobody should lose money if we put the right structures, laws, and penalties in place. As Parliament we have to look at these loopholes. I think Ksh500,000 is too little if you have deposited Kshs10 million, Ksh5 million or Kshs2 million. It is too little a compensation to encourage you to save. What makes a country develop? It is savings, but not the savings under your mattress. We try to discourage that. It is eaten by termites as one of the Members said. It is about saving in financial institutions. These savings are what enables the Government itself to not compete with the private sector and be able to have money available to steer and spearhead the economy. How can bankers lend people money when there are no deposits? How can people deposit money when they know the amount of money you put in deposits will not yield any returns in case a financial institution goes down? Why should financial institutions go down if we put good structures in place, if we audit and ensure that the banks are adhering to what needs to be adhered to?

For me, I really feel it will be shameful if this Bill does not see the light of day considering how long it has taken Hon. Dawood to work on it. We also need to understand that the more savings a country has, the more a country is able to spearhead all the lending that leads to private sector growth. Government is not in the business of doing business; government is in the business of facilitating businesses. We facilitate businesses by encouraging savings. The more a country saves, the more it has to lend. The more a country has to lend, the more you have investor confidence and businesses all over the place. America is great today not because they are very rich but because of the middle class. For the middle class to access money, banks have to have surplus money. And for banks to have surplus money, there have to be savings. For people to save with banks, they have to feel that their government is not only securing the minimum amount of Ksh1 million, which is what Hon. Dawood wanted to do, but it also secures the structures to prevent collapse of banks. I was saving with Chase Bank, which is now SBM Bank.

After all the restructuring and boardroom discussions that they had, where everybody obviously had something to make, we were told we had no choice: whatever deposits we had, we had to agree to be paid that money over a period of time. That was better than losing it all as the Imperial Bank depositors did. So, I honestly commend my brother for his effort and encourage him not to give up. At the end of the day, we are here to represent people and they should not lose money when they save with any financial institution in this country.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Oyula Maero, Member for Butula.

Hon. Joseph Oyula (Butula, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to also contribute to this very important Bill. The amendment is very important to the people of Kenya.

A depositor takes his money to a bank for safe custody and for future investment. A depositor expects that any time he goes back to the bank to look for his money, it should be available and not to be told that the bank has closed down hence he loses his deposit. So, it is the responsibility of the management of the bank to ensure that deposits are well taken care of. The Central Bank is there to supervise banks and make sure that depositors' money is safe. Responsibility for whatever happens lies with the Central Bank and the banks. Deposit protection should come in in case banks are completely unable. And they should be able to compensate the depositor to the maximum level, not Ksh100,000. We should not look at depositors as small or big ones. To earn this money takes time, so it must be protected. If the small depositor who was expecting to increase his deposit is told that the money is lost, we are like telling the depositor that he would as well go to hell.

My position is to support this Bill so that the depositor is properly compensated in case a bank fails. It should be the responsibility of the Central Bank to make sure that banks do not fail. Even the Ksh1 million we are talking about is not enough. Why do banks fail? It is because of the carelessness of the management. The banks should arrange with the Central Bank on how to compensate depositors when need arises. This idea of protecting small and big depositors is good. We should not only look at big depositors and ignore small depositors. When will the small depositors become big depositors? They can only increase their deposits if they are secure. To be secure, they must know that there is proper compensation should there be any loss. This Bill should be supported so that small depositors are protected. It is the small depositors that we as Members of Parliament should take care of.

Everybody is talking of investments and improving the economy. How are we going to improve the economy when monies get lost in banks because of corruption? Money does not just disappear. It gets lost because of corruption. Whoever comes in, whether it is a big or small politician or the government, should know that they are punishing small depositors. Therefore, the small depositor stands to be compensated adequately. So, I support this amendment. Even though the increase was gazetted at Ksh500,000, that is still very little money. Even the Ksh1 million we are talking about is still on the lower side. I support this Bill and thank Hon. Dawood for having brought it. A lot of us have suffered in the hands of banks.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Pukose Robert, Member for Endebess.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker, for allowing me to speak to this Bill. May I apologise for coming late. It is because my Bill, the Kenya Drug and Food Authority Bill (National Assembly Bill No. 31 of 2019), would have come before this one. I am still here to make sure that if my turn comes I will be able to move the Bill and have Members contribute to it. It is a very important Bill that we have waited for a long time.

On the Kenya Deposit Insurance (Amendment) Bill by Hon. Dawood, I want to say categorically that I support the amendment. I keenly listened to what the Leader of the Majority Party was trying to explain on why he opposes the Bill and I realised that he was contradicting himself. When you say that you want to protect depositors through insurance, in this country we

have a history of many banks coming up where people make their deposits, but after a short while, those banks collapse and disappear with people's money. They have been operating in a similar fashion to pyramid schemes. Right now you can only be assured with the major banks. People fear putting their money in banks like the Imperial Bank, Chase Bank and Bank of Dubai. As we speak today, many Kenyans have suffered. Some have even committed suicide. Some are still on treatment for hypertension, diabetes and other diseases as a result of their deposits in these banks disappearing. The Central Bank, through regulations, has now provided that you can be compensated to a maximum of Ksh500,000. What Hon. Dawood proposes is Ksh1 million through an Act. An Act is stronger and carries more weight than a regulation.

Hon. Dawood has increased it from Kshs500,000 to Kshs1 million, which to me is a reasonable figure. Not many Kenyans can deposit up to Kshs1 million but we have millions of them depositing their money in denominations of Kshs500,000, Kshs700,000, Kshs800,000, Kshs200,000 and Kshs100,000 to make the banks operational. So, when you say that you want it to be around Kshs500,000 and not Kshs1 million, what do you mean? I could not get the logic from our leader on why people with large sums should fear that compensation of up to Kshs1 million. I think Hon. Dawood's amendment is in the right direction. It should be supported and it will save millions of Kenyans who can deposit their money in any bank without fearing whether this bank is going to collapse or not.

It also raises questions on why many Kenyans want to even go and deposit their money in these banks. It is because of accessibility. The big banks might not be accessible by people living in the rural areas or within the confines of towns. Getting the major banks might not be possible in some estates. The small banks can be there but you want to be sure that your money is safe in this bank. It will also make it accessible to many Kenyans because they have resorted to undertaking cash transfers transactions through Safaricom's M-Pesa Services. That is the only reliable place to keep your money. If we have security, we are sure to put our money in small banks that are within our estates because it is safe. With this, everybody will be able to go to the bank, deposit money and even ask for a loan and be able to do his other projects instead of going to the M-Kopa, Fuliza and other things which are very expensive, with interest ranging from 300 per cent to 3000 per cent. You need a bank you can put your money in, borrow and be able to engage in business. This will grow the business in our country.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Murugara Gitonga, Member for Tharaka.

Hon. George Gitonga (Tharaka, DP): Thank you very much, Hon. Temporary Deputy Speaker.

At the outset, I support the Bill. I have laboured to listen to the Leader of the Majority Party trying, in mysterious ways, to pour some cold water on it when it is a well-intentioned Bill meant to take care of the small depositors who feel the loss of losing money from a collapsed bank.

A billionaire may not care about Kshs100,000, Kshs500,000 or Kshs1 million. However, a small saver with deposits amounting to only Kshs3 million in a collapsed bank would feel relieved if he is able to recover Kshs1 million out of the Kshs3 million. This is what has driven Hon. Rahim Dawood to introduce the amendment. It is so that we are able to take care of the people who are at the bottom of the pyramid. This is very important.

The Kenya Deposit Insurance Corporation (KDIC) took the place of what used to be known as the Deposit Protection Fund; a fund which used to be set aside to protect depositors in case of banks going down. This was rampant in the mid-1980s and towards the beginning of the 1990s.

Banks went down because of political reasons. They would say, “We do not like you, we do not want your bank” and you would go under. Eventually, conmen came in and were able to set up banks. They took deposits and fled with them. That is why the Deposit Protection Fund was established. Interesting enough, the Deposit Protection Fund was supposed to turn around and revive collapsed banks.

I speak in confidence because I used to practise for some of the collapsed banks at the Deposit Protection Fund itself. It is evident that none of the banks ever recovered, and none of them was revived. Despite the fact that we were making recoveries, some of the debts were going concerns. They were good debts yet none of the banks was revived. That is possibly why in 2012, it became important to have an insurance corporation to take care of deposits, on behalf of depositors. It is a very good idea. This is because as I deposit my money with anybody, including the rest of the banks, I am taking a risk because that money may go for good. Therefore, it was important and crucial to have an insurance taking care of such deposits.

I am aware that the KDIC is funded by some premiums paid by the banks, which are recovered from depositors. The Leader of the Majority Party said that we have to appropriate most of the money if we are to increase what is to be recovered by depositors. We also need an explanation as to what happened to the premiums that we pay to this corporation. Therefore, as we speak to this Bill, Hon. Dawood, I think you should take part and convince Members to pass the Bill. If the Leader of the Majority Party feels it should not be signed into law, it is up to him. He knows where to go and what to do. However, let us pass this Bill with a view to protect Kenyans who deposit their money with small banks. There are advantages to this because we encourage people to deposit their money with smaller banks, which means they will grow and become international banks. We are also encouraging people not to keep their money under mattresses because they are sure that in spite of their small savings, if a bank goes under, they will make some recovery.

The Leader of the Majority Party has told us that the Regulations have moved up the figure from Kshs100,000 to Kshs500,000 but of course he was shy to tell us who funds the increment. If what he said is true, who funds the increment? Whoever funds the increment can also fund the increment being proposed by Hon. Dawood. Most importantly, and this is crucial; the Kshs500 million is anchored in the Regulations that arose from the subsidiary legislation, and we know what happens to subsidiary legislation and its force of law when it comes to implementation. This can be altered through repeal and that will be the end of the Kshs500,000 provision. Let us, therefore, move as proposed by Hon. Dawood and make a substantive amendment to the Kenya Deposit Insurance Act, which is the principal law that we are dealing with today.

The spirit and letter of the proposed amendment is agreeable. Hon. Dawood has given us the comparison. We seem to be lagging behind. What is Kshs100,000 or Kshs500,000 today? Let us increase this figure to Kshs1 million and after a short while, we move it to Kshs5 million or Kshs10 million. This is because we want people to be encouraged to save their money with the banks. We also want banks to take deposits so that they can grow and in the process we are able to turn around the economy.

Hon. Dawood, I support this because to me, it is for the benefit of the hustlers in the country – the people who are down the pyramid, whom we should be removing from the pyramid schemes and taking care of in a manner they will feel they are also able to have their money protected.

With those remarks, I support the Bill. I urge the House to pass it. If the Leader of the Majority Party is not happy with it, he knows what to do.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Oduol Adhiambo.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Hon. Temporary Deputy Speaker, could I contribute to the next Motion?

The Temporary Deputy Speaker (Hon. Christopher Omulele): You are preparing for the next one. Let us have Hon. Edith Nyenze, Member for Kitui West.

Hon. (Ms.) Edith Nyenze (Kitui West, WDM-K): Thank you, Hon. Temporary Deputy Speaker. From the outset, I support the amendment to the Kenya Deposit Insurance Act. I also thank my colleague for introducing this amendment Bill that is raising the figure from Kshs100,000 to Kshs1 million. That will cover most small depositors because Kenyans deposit very small amounts in banks. If they can recover Kshs1 million of their deposits, that will cover most Kenyans who have deposited in those banks. That would mean that maybe even more than 80 per cent of the depositors would get their money back and not lose their investments. They will not lose their businesses. By doing so, they are contributing to our economy because they can pay their taxes. However, if they lose that money, that would mean that our economy will be affected because they will be unable to pay their taxes. I support raising the amount from Kshs100,000 to Kshs1 million, so that most depositors can recover their money.

The amendment Bill also proposes that the KDIC should pay depositors within six months or a shorter period following the conclusion of the liquidation of the institution. That will cover most of the depositors and ensure that their source of income continues, so that they can continue with their businesses. We saw that in some of the banks which were liquidated, it took so long for people to even be given that Kshs100,000. It took years. If the period is reduced to six months and below, people can continue with their businesses and Kenya can continue getting revenue and not affect the economy and the businesses of those people.

Hon. Temporary Deputy Speaker, I support the Bill. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Mutunga Kanyuithia, Member for Tigania West.

Hon. John Mutunga (Tigania West, JP): Thank you, Hon. Temporary Deputy Speaker for the opportunity to add my voice to the voices of my colleagues who have spoken for and against the Bill. We are all aware of what has happened in Kenya over time. Banks have collapsed. People have lost their livelihoods and savings. Any effort to assure people of their livelihoods and savings is welcome. That is why I support the Bill and the effort to increase the amount of money that one would recover in the event that a bank collapses.

We are also aware of what happened in the past. It is important for us to encourage Kenyans to open up banks. If Kenyans did not have confidence in banks like Equity Bank and the Kenya Commercial Bank, they would currently not be international banks. Equity Bank was a building society that has now grown into an international bank because of the support it got from Kenyans which was derived from the confidence that they had in that bank and many others.

Most small-income earners are savers. Most banks are sustained by small savings. When a bank collapses, the greater majority of people who suffer are small savers. Looking at the statistics of what happens in those banks, most people who have a lot of money borrow money from the small people. In other words, the small support the big. Therefore, opening up the bracket increases the number of people who will be saving in our banks and that gives them confidence that they will not lose their livelihoods or savings and, therefore, can save more. That is why I support the Bill.

The Bill creates an opportunity for investment in the banking industry. Many banks will survive. Small banks will come up. They will get customers because people know that their money is protected. Opening up brackets will enhance that confidence in saving. We are talking about the maximum amount paid to a depositor increasing from the currently legislated Kshs100,000 to around Kshs1 million. Even if it was slightly more, it would create more confidence and open up brackets for slightly bigger savers to also be confident that they may keep their money in terms of cash in the bank instead of keeping their money in terms of shares. That is why I support the fact that if we increase the amount recoverable from a collapsed bank system, it will enable many Kenyans to participate in that process.

The deposit protection scheme is a safety net. The stronger the safety net, the more reliable it is. Why are we talking about retaining it at Kshs500,000 when we can increase it to Kshs2 million or more? I support the idea of increasing it because it will anchor stability for the consumers of that product. Many people will be confident enough to save. The Bill is a reliable means of ensuring that we do business well. Anchoring that provision in law is something that we needed to do yesterday. That is why I support the initiative by Hon. Dawood to increase the deposit to at least Kshs1 million.

Hon. Temporary Deputy Speaker, I support the Bill.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Obara Akinyi, Member for Kabondo Kasipul

Hon. (Ms.) Eve Obara (Kabondo Kasipul, ODM): Thank you very much, Hon. Temporary Deputy Speaker for giving me the opportunity to support the Bill.

We are familiar with the history of banking in this country when huge banks were the kings of the industry and customers had to beg to be served. Soon after, we had small banks coming up and making banking accessible to the small trader and public servants with their meagre earnings. This saw the big banks again running back and starting to hawk their services because they lost customer focus.

Unfortunately, I am also a victim of money that was lost in the small banks. It was mainly due to the fact that there was poor supervision or oversight by the Central Bank of Kenya. There was also abuse of office by some who got too excited about the amount of money that was coming into their institutions and misused customer deposits. As we know, deposit insurance is meant to protect individuals who deposit their savings in the banks.

Hon. Temporary Deputy Speaker, we put our savings in banks because we cannot put them under our pillows or beds for security reasons. Therefore, we expect that those banks will in turn have a cover that will protect us and give us the confidence that our money is in a stable environment. As I said earlier, I am a victim of the Kshs100,000. This was a deposit that I had put towards my children's education. It was very painful. I support that we increase the amount to Kshs1 million from Kshs500,000 that is already gazetted maybe with a small variation that we may need to look at a percentage that is commensurate to the deposits that you have so that if you have a lot of money in a bank, you will be given a little bit more than a person who has deposits amounting to, say, Kshs200,000 or Kshs1 million. I strongly support this amendment. This is an area we need to look at so that the small-time depositors are given confidence to save their money without looking back and thinking that the money will go under as it did in the 1990s and early 2000s.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Tonui Kiprotich, Member for Bomet Central.

Hon. Ronald Tonui (Bomet Central, JP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to also comment on this Bill.

At the outset, I want to support this Bill by Hon. Dawood and commend him for coming up with it. The Bill is taking care of the interests of the small depositors, the people we currently call “hustlers.” I support 100 per cent anything to do with hustlers. As you know, we are coming up with the bottom-up economic model. So, this Bill is very good and I hope that...

Hon. Martin Owino (Ndhiwa, ODM): On a point of order.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Martin Owino, what is out or order?

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Speaker. I did not want to interrupt. The Bill for Hon. Dawood is very important. Is it in order for the Hon. Member to water down this Bill to hustlers and bottoms-up narrative? I think it is wrong.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Member for Ndhiwa, resume your seat.

Hon. Tonui please proceed.

Hon. Ronald Tonui (Bomet Central, JP): Thank you, Hon. Temporary Deputy Speaker. You know, the Hon. Member comes from around Kisumu area and they have a joint called “Bottoms Up”. What we are talking about is bottom up, not that one of Kisumu. Please differentiate between the two.

We are trying to take care of the hustlers – those people who are struggling to make ends meet. If they deposit any amount of money in a bank, that money should be well taken care of. I want to commend the current Governor of the Central Bank of Kenya (CBK). I believe he has been supervising the banks quite well as none has collapsed of late since the days of Chase Bank.

I believe he is doing a good job and he should continue doing so. The law only protects a deposit of Kshs100,000, which we want to adjust to Kshs1 million. It will be good if we upgrade it from the level of regulations to that of an Act of Parliament. It will be stronger. This is because the people making the Regulations are political appointees who can easily be manipulated. Also, there are so many interests in the banking sector. In fact, I hope this one will go through because I know there are many political interests in this sector that may influence the direction of the Bill.

I also wish we could take care of small borrowers, especially those being prevented by the banks from getting loans directly. However, they are allowed to get the same loans from the same banks indirectly through digital lending such as M-Shwari. At one time there were caps on interest rates. The banks opened M-Shwari to use as a backdoor and loan their money through M-Pesa and others and I believe this was illegal. I hope a person like Omtatah will borrow this idea, take it and follow them up on the monies they overcharge Kenyans. We had a law ensuring that interest could only be an upward of 4 per cent above the Treasury Bonds. This was the requirement but since it did not have a legal framework the members of the public were exploited.

There are also many hustlers including teachers who have joined Savings and Credit Cooperative Societies (SACCOs) and some established bank owners mislead them to buy into collapsing banks, losing their deposits. These small people need to be protected by the Government so that those in charge of SACCOs cannot be manipulated by the bank owners to buy empty shelves thereby losing their small savings. These struggling hustlers need to be taken care of at any given opportunity. The fund adjusted from Kshs100,000 to Kshs1 million, I believe will be good and can give someone start-up capital for something especially the hustlers. You know they live from hand to mouth and could be depositing something in the bank... You know Dawood is

worried this Bill will not be assented to when we talk about hustlers. Do not worry it will be assented to.

Thank you, for the opportunity to comment on this.

Hon. (Dr.) James Nyikal (Seme, ODM): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Nyikal what is out of order?

Hon. (Dr.) James Nyikal (Seme, ODM): On a point of order, Hon. Temporary Deputy Speaker. I stand on Standing Order No.95 because I have listened carefully and all the people who have participated are supporting this Bill. I want you to call upon the Mover to reply.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, Hon. Nyikal has stood in his place and proposed that the Mover be called upon to reply.

(Question, that the Mover be now called upon to reply, put and negatived)

Hon. Oundo Ojiambo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker for this opportunity to contribute to this Bill. I stand here with a bit of reservations in respect to this Bill. I do so in respect to the section supposed to be amended, that is Section 28 that makes provisions for a minimum amount but also for corrections to be made from time to time to determine any other amount as minimum or maximum through regulations.

The Bill intends to amend the Kenya Deposit Insurance Act and specifically, the issue of Deposit Insurance Corporation Fund on how much it can pay. There are fundamentals we need to put in place from the outset for us to understand the genesis of this matter. First of all, it is expected that people in any given jurisdiction will save. Those savings are lent to investors to invest, create jobs, buy supplies and enable running of economy. The importance of deposits in any economy cannot be gainsaid or overemphasised because they are extremely important.

Secondly, it also presupposes at one time or another a deposit-taking institution will have challenges and collapse due to external, internal, extraneous and local factors. What happens therefore, in the event a deposit-taking institution has challenges meeting their obligations? It is possible this is an inherent risk in the banking industry or financial institutions. There are other mechanisms. The first mechanism is the deposit-taking institutions manage the risks on their own. Secondly, they transfer the risk. Is it with this wisdom that the Kenya Deposit Insurance Fund and the KDIC was created under the Kenya Deposit Insurance Act? The issue here is, who is a depositor who stands to lose most? Who is a depositor who stands to lose less? Who is a depositor who can withstand the loss? Who is a depositor who can manage the loss of his deposits? It is probably on this basis that the principal Act set Ksh100,000 and the regulations attendant to it set Ksh500,000 as the amount to be compensated in the event of a financial institution collapsing.

Why do financial institutions collapse? That is the question. Should they actually collapse in the first instance? There are provisions in the Banking Act and this subject Act that give the CBK, the corporation itself and other government agencies the authority and the power to supervise banks to an extent that banks do not collapse. From the first instance, if you are making a decision to deposit your money or invest, there is an expectation that any depositor will take a bit of due diligence to assess and test whether the financial institution has got capacity to manage their deposits. There is a shared risk and expectation that the depositor will not fall prey to sweet

talking sales people to invest or deposit in shell companies. In many occasions, many of the institutions that have collapsed have collapsed by design. It is not by default. There was already an intention from the word go to defraud specifically the big depositors who are generally government institutions, government entities and other related entities. To imagine that an institution will fail in this modern era with a strong CBK is, therefore, to cast doubt into the ability of the Central Bank and other institutions not to have seen the signs in advance.

Section 38 of the principal Act clearly mandates the corporation together with the CBK to continuously carry out inspection to ensure there are no risks at all. The same Act under Section 2 creates a definition called “problem institutions” which means any institution that places the interest of its depositors or the banking sector at risk. Essentially, the amendments in this Act, however well-intentioned they are, are trying to address the wrong problem. They are not trying to address the root cause of any collapse. Today, Ksh100,000 might not mean much. Neither will Ksh1 million mean much. In the next few years, we might even move these limits to even Ksh1 billion. We will never be able to satisfy all the depositors. The focus should not actually be the minimum, the focus should not be any monetary amount, it should be how we insulate the banking sector from collapse that is very well designed.

This country has a tendency of being carried away by euphoria, sloganeering and very sweet marketing tools, and pitch that sways Kenyans to deposit or engage in some risky investment. How do you explain pyramid schemes and phony SACCOs that swindle people’s money yet they know very well they are being swindled? We must go beyond prescribing such restrictive measures and address the root cause.

How do you determine what a bank is? Banks create facilities, deposits and assets that can insulate them from collapse. If a small bank tells you that they will pay you 15 per cent on your deposit, any sane person should ask himself or herself whether that is real or a mere story. The problem with Kenyans is that they have a get-rich-quick mentality that is being sold by some politicians in the name of the bottom-up economy. Manna no longer falls from heaven. There is no other way other than working. Those get-rich-quick schemes that lead you to deposit and make money will not happen.

I totally empathise with my colleague for having gone out of his way, but honestly speaking, this is another legislation that has no value.

Basic statistics indicate that 90 per cent of deposits in many institutions, especially under individual deposits, are between Ksh100,000 to Ksh200,000. That is an average of about Ksh150,000. Moving the deposit to Ksh1 million without looking at the amount of funds and levies those financial institutions contribute to the Deposit Protection Fund will lead to its collapse. It will never manage to pay because the principle of insurance is that there must be enough premiums and less claims for it to be suitable.

I am inclined to agree with the Committee that this amendment Bill might not be the right solution to the underlying problems in the banking sector and the stories going around. Somebody with Ksh1 million in the bank cannot really be called a hustler unless that is another swindler that we know of.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very good. Let us have Hon. Nguni Nduati, Member for Gatanga.

Hon. Joseph Nduati (Gatanga, JP): Thank you, Hon. Temporary Deputy Speaker for also giving me an opportunity to contribute to the Bill.

From the outset, I also support the Bill. It will go a long way in protecting small depositors. Majority of Kenyans do not hold a lot of money in our banks. In fact, if I am not wrong, over 80 per cent of depositors in our local banks hold less than Ksh100,000. It is important that we protect them.

I have heard Hon. Oundo saying that Ksh100,000 is nothing. Ksh100,000 is a lot of money. There are not many Kenyans who have that kind of money. Maybe when you get an opportunity, you need to retract that, so that you are not bashed by the people of Funyula.

I come from Murang'a County. We are known to...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Just hold on, Hon. Joseph Nduati. Hon. Oundo, what is out of order?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Speaker, if the *Hansard* will bear me witness, I said that 90 per cent of Kenyan deposits average between Ksh100,000 to Ksh200,000. I clearly said that today, Ksh100,000 might not look like much and we might again move that threshold to even Ksh1 billion, which is not possible under the current regime. I said that most depositors have an average of about Ksh150,000.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Oundo, you are absolutely right. I do not think that he besmirched those who have Ksh100,000 or less. He said that in a comparative way.

Proceed, Hon. Joseph Nduati.

Hon. Joseph Nduati (Gatanga, JP): Thank you, Hon. Temporary Deputy Speaker. I come from Murang'a County where most local banks started from. Those banks have been built by ordinary Kenyans - the ordinary tea grower, coffee farmer, avocado farmer, milk farmer and banana farmer. They are the ones who have really supported those banks. From those banks, has emerged one of the biggest banks in this country called Equity Bank. It is not only Equity Bank, but there are other smaller banks which are coming up like the Amica Savings and Credit Cooperative, Murata SACCO and many other banks which I will not be able to mention here.

So, it is important that we protect our people. I have heard many people here calling some of us hustlers and I want to dispute that. My mother used to sell vegetables. So, I am a son of a *mama mboga*, and I would like to say that my mother was not poor. When I hear people despising my mother, I normally get very bitter because those small businesses have built this country. They are not gangsters or fraudsters. These are people who work very hard. I grew up in a family of nine and my mother, who used to sell vegetables, was able to take us to good schools. All my siblings and I went to school.

So, I would advise leaders not to despise our people by showing them that they are nothing. People have risen from those small businesses and we have seen it demonstrated by people from Kangema and Mathira. There are people who came here as shoe shiners. From that shoe shining business, they would start selling newspapers. From selling newspapers, they would start a small kiosk. From that small kiosk, they would start a timber selling business. If you go to Machakos Country Bus Station, when those big businesses you see there started growing, I was around. Their owners started very small and today they are big people.

Even a majority of us here, having gone through university, also started small. We used to walk to work and share houses and food. This is something we need to encourage. We need to encourage our youths and tell them that there is no free money. That opportunity will never be there. You have to start small and grow. Whether you are educated or not, you must learn to do something.

I really want to encourage our youths that not all of us can go to university. This Government has done a lot. We have built the Technical, Industrial, Vocational and Entrepreneurship Training (TIVET) colleges and youth polytechnics. I would like to encourage our youths to join those polytechnics in their local areas and become that carpenter, plumber and electrician we are lacking in this nation, I can assure them that even with that local training, they can grow to be big persons.

I used to be a consultant before I transformed myself into a contractor. What motivated me is that, as a young consultant, I would see young people who had left our local polytechnics with just some basic skills in a certificate course coming and would start with a job of Kshs100,000. The next day they would grow to Kshs1 million. Another time they would be doing work worth Kshs50 million and another time you would give them work worth Kshs100 million.

With the little money I was getting as a consultant, I decided to transform myself from being a consultant to a contractor. Those opportunities are there. From the little opportunities that are provided by the Government, I grew to be a big contractor. In 2007, from my humble beginning, I was given an award as the third-best performing contractor in Kenya. That is what I want to encourage our people. Those opportunities are there. You do not have to bribe anybody. Those jobs are availed by the Government. They are advertised. You do not need anybody to support you. Our young people must be encouraged and that idea of calling our people hustlers should end.

The only thing I am disagreeing with the Bill is this idea of being paid six months after liquidation. We need to, maybe, amend that one a bit because liquidation in this country takes very long, sometimes even 10 years. If we will have to wait for 10 years to pay our people, that is quite long. A way should be found out, Hon. Dawood, so that our people can be paid quite early instead of maybe six months.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Muli Fabian, Member of Kangundo.

Hon. Fabian Muli (Kangundo, Muungano): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to add my voice on this Bill. The KDIC is not only set to give security to depositors but also invitation to customers to approach banks and deposit their money. From the beginning, I know the good faith of the Hon. Member was to give a solution to Section 28 to know how depositors can be given their value when liquidation happens. The way this Bill has been drafted has a lot of discrepancies. A question that you will ask yourself is on Section 28 of KDIC. It is supposed to show the amount payable to the customers when we have issues of banks being closed or a SACCO has been closed. That time it gave Kshs100,000, but today we are putting the amount higher, at Kshs1 million. Why do we give the exact amount? We are forgetting that tomorrow somebody will come with Kshs2 million and another Kshs5 million. I have been asking myself questions. Hon. Members have good ideas but some Bills are not drafted to serve the purpose of today. Tomorrow we will come up with this Bill to say we raise the amount to Kshs2 million. The purpose of this Bill is to show the aggregate amount payable to the customers in case of liquidation. Why do we put it at Kshs2 million? We leave it open. It is supposed to be open because there may be a customer who deposited Kshs5 million and another Kshs1 billion. Why do we put short term things in Bills then say we are going to make it Kshs2 million? That is one problem I have seen with this Bill.

I understand where the Leader of the Majority Party was coming from. The school of thought for the Leader of the Majority Party was whether this Bill is serving the purpose. The idea

of this Bill is good but it is not serving the purpose. So, my request is that we do amendments to this Bill in our Third Reading.

The other issue is the word “insurance”. If you see the history of this country and where this country has come from, insurances are becoming very smart in English laws. They bring English laws where they do not want to pay. Is this Bill going to indemnify our customers in the bank when they deposit this money? This Bill is not going to give the purpose of indemnification. There are people who will have bigger money. There are people who will have small money. This Bill is bringing discrimination to some classes. We should not make laws which discriminate people. So, there is class left. We should make laws which attract everybody, including the young man with one bob or whatever the name you use and the billionaire in the street. So, we should make laws which give competitive fairness. Again, this Bill is going against laws of competition because it is specifying one class and amounts. It is not going to give the right indemnification required in insurance.

In this country, when you have a road accident, there is what we call assessor value. When insurance companies want you to insure your car or house, they will bring an assessor who will give value of huge amounts of money. When they start paying that, they will say “this is not the market value today”. What happened when you were taking that insurance? It is high time we cornered insurance companies. They are really misusing our Kenyan citizens. You buy a car whose value is Kshs8 million, but when you get an accident, they will tell you there is what we call off-market. Did I get my money from off-market or I gave you original money? So, these are some of the questions we need to drive insurance companies to do their work accordingly.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Fabian, you have been caught up by time. You still have six minutes to contribute. You will have that time when this matter is again set down on the Order Paper for consideration.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, the time being 1.00 p.m., this House stands adjourned until Wednesday, 18th August 2021 at 2.30 p.m.

The House rose at 1.00 p.m.